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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–5590; Directorate Identifier 2016–NM–018–AD; Amendment 39–18588; AD 2016–14–07

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), Model CL–600–2D24 (Regional Jet Series 900), and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD was prompted by reports of undesirable changes in the Reference Airspeed (RAS) Bug, occurring during flight without pilot input. This AD requires replacing the flight control computer (FCC). We are issuing this AD to prevent uncommanded pitch changes, which could result in deviation from a safe flight path.

DATES: This AD is effective August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 16, 2016.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5590.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5590; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7301; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), Model CL–600–2D24 (Regional Jet Series 900), and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The NPRM published in the **Federal Register** on April 14, 2016 (81 FR 22037) (“the NPRM”). The NPRM was prompted by reports of undesirable changes in the RAS Bug, occurring during flight without pilot input. The NPRM proposed to require replacing the FCC. We are issuing this AD to prevent uncommanded pitch changes, which could result in deviation from a safe flight path.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2016–02, dated January 20, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ”the MCAI”), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440), Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), Model CL–600–2D24 (Regional Jet Series 900), and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> There have been numerous reports of uncommanded changes in the Reference Airspeed (RAS) Bug during flight. When the Auto Flight Control System (AFCS) is in a speed mode (CLB, DES, IAS or MACH), the flight director will show vertical guidance to achieve or maintain the reference airspeed. If the autopilot is engaged, the aeroplane will automatically follow that vertical guidance and cause the aeroplane to pitch up or pitch down. Investigation revealed that this uncommanded reference airspeed changes were caused by the FCC that did not correctly read the input data from the Input/Output Concentrator. If not corrected, these uncommanded pitch changes could create hazard for continued safe flight. This [Canadian] AD mandates installation of a new filter to the Input/Output Circuit Card in the FCC.

Uncommanded pitch changes, if not corrected, could result in deviation from a safe flight path. Corrective actions include replacing the FCC. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5590.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. The commenter supported the NPRM.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed.

Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Service Bulletin 601R–22–018, Revision A, dated November 3, 2015; and Service Bulletin 670BA–22–009, dated August 17, 2015. The service information describes procedures for replacing the FCCs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1,008 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace FCC	3 work-hours × $85 per hour = $255 per airplane	$2,800	$3,055	$3,079,440

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–14–07 Bombardier, Inc. Amendment 39–18588. Docket No. FAA–2016–5590; Directorate Identifier 2016–NM–018–AD.

(a) Effective Date

This AD is effective August 16, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., airplanes, certificated in any category, identified in paragraphs (c)(1) through (c)(5) of this AD, all serial numbers, that are equipped with a flight control computer (FCC) with a part number and serial number listed in paragraph 1A., "Effectivity", of Bombardier Service Bulletin 601R–22–018, Revision A, dated November 3, 2015; or Service Bulletin 670BA–22–009, dated August 17, 2015; as applicable.

(1) Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes.

(2) Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes.

(3) Model CL–600–2D15 (Regional Jet Series 705) airplanes.

(4) Model CL–600–2D24 (Regional Jet Series 900) airplanes.

(5) Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Reason

This AD was prompted by reports of undesirable changes in the Reference Airspeed (RAS) Bug, occurring during flight without pilot input. We are issuing this AD to prevent uncommanded pitch changes, which could result in deviation from a safe flight path.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Replace the FCC for Certain Airplanes

Within 33 months after the effective date of this AD: Remove the FCC from the integrated avionic processor system (IAPS) and replace the FCC, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraph (g)(1) or (g)(2) of this AD.

(1) Bombardier Service Bulletin 601R–22–018, Revision A, dated November 3, 2015; or

(2) Bombardier Service Bulletin 670BA–22–009, dated August 17, 2015.

(h) Parts Installation Limitation

As of 12 months after the effective date of this AD, no person may install any FCC having a part or serial number identified in Bombardier Service Bulletin 601R–22–018, Revision A, dated November 3, 2015; or Bombardier Service Bulletin 670BA–22–009, dated August 17, 2015; unless "SB 50" is marked on the FCC modification chart (MOD chart).

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 601R–22–018, dated August 17, 2015, as applicable. This service information is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found

in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–02, dated January 20, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–5590.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Bombardier Service Bulletin 601R–22–018, Revision A, dated November 3, 2015.

(ii) Bombardier Service Bulletin 670BA–22–009, dated August 17, 2015.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on June 28, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–16321 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3983; Directorate Identifier 2015–NM–009–AD; Amendment 39–18582; AD 2016–14–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A330–200 Freighter series airplanes; Model A330–200 and A330–300 series airplanes; Model A340–200 and A340–300 series airplanes; Model A340–500 series airplanes; and Model A340–600 series airplanes. This AD was prompted by a report indicating that, during an operational test of a ram air turbine (RAT), the RAT did not deploy in automatic mode. This AD requires identification of the manufacturer, part number, and serial number of the RAT, and re-identification and modification of the RAT if necessary. We are issuing this AD to prevent non-deployment of the RAT, which, if preceded by a total engine flame-out, or during a total loss of normal electrical power generation, could result in reduced control of the airplane.

DATES: This AD is effective August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 16, 2016.

ADDRESSES: For Airbus service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

For Hamilton Sundstrand service information identified in this final rule, contact Hamilton Sundstrand, Technical Publications, Mail Stop 302–9, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; telephone 860–654–3575; fax 860–998–4564; email *tech.solutions@hs.utc.com;* Internet *http://www.hamiltonsundstrand.com.*

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3983.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3983; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Model A330–200 Freighter series airplanes; Model A330–200 and A330–300 series airplanes; Model A340–200 and A340–300 series airplanes; Model A340–500 series airplanes; and Model A340–600 series airplanes. The NPRM published in the **Federal Register** on March 1, 2016 (81 FR 10545) ("the NPRM").

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0008, dated January 15, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A330–200 Freighter series airplanes; Model A330–200, and A330–

300 series airplanes; Model A340–200, and A340–300 series airplanes; Model A340–500 series airplanes; and Model A340–600 series airplanes. The MCAI states:

> During a scheduled Ram Air Turbine (RAT) operational test on an A330 aeroplane, the RAT did not deploy in automatic mode. The subsequent investigation conducted by the RAT manufacturer Hamilton Sundstrand (HS) and Arkwin Industries, revealed that this failure to deploy was due to an inadequate stroke margin in the manufacturing shimming procedure of the actuator deployment solenoids.
>
> This condition, if not corrected, could possibly result in reduced control of the aeroplane, particularly if occurring following a total engine flame out, or during a total loss of normal electrical power generation.
>
> Prompted by this unsafe condition, Airbus issued Service Bulletin (SB) A330–29–3126, SB A340–29–4097 and SB A340–29–5025, providing instructions to identify the manufacturer, part number (P/N) and serial number (s/n) of the RAT actuator, and to modify the shimming procedure for the affected RAT actuator.
>
> For the reasons described above, this [EASA] AD requires identification of the affected RAT actuators and, depending on its configuration (modified or not), the accomplishment of applicable corrective actions [modifying the RAT actuator. Additional actions include re-identifying the RAT actuator part number and RAT part number, as applicable].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3983.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Change Requirement From Modify To Replace

Delta Airlines (DAL) requested that the requirement to modify the RAT actuator in paragraphs (g)(2) and (g)(3) of the proposed AD be changed from "modify the RAT actuator" to "replace the RAT actuator." DAL stated that operators cannot ensure that the removed RAT actuator would be modified by the RAT manufacturer by the compliance time specified in the proposed AD.

We agree to provide clarification regarding the requirement to modify the RAT actuator, but we do not agree with the commenter's request to change "modify" to "replace." The modification procedures described in the Accomplishment Instructions of the Airbus service information specified in paragraphs (g)(2), (g)(3), (h)(2), and (h)(3) of this AD include more than just a modification. The modification procedures in the Airbus service information state to (1) remove the actuator from the RAT, (2) send the removed actuator to Hamilton Sundstrand, and (3) install the modified actuator on the RAT and re-identify the part number.

We also agree that operators do not have control over how long it would take Hamilton Sundstrand to modify the actuator, or if the modification could be completed prior to the applicable compliance times in this AD. Therefore, we have revised paragraphs (g)(2), (g)(3), (h)(2), and (h)(3) of this AD by removing the word "modify" and replacing it with "remove the actuator from the RAT, install a modified actuator, and re-identify the RAT . . . ."

Request To Include Review of Maintenance Records

DAL requested that paragraph (g) of the proposed AD be revised to include a statement that a review of airplane maintenance records is acceptable to determine the supplier, part number, and serial number of the installed RAT actuators if the supplier, part number, and serial number can be conclusively determined from that review. DAL stated that it has already modified airplanes in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014, and it tracks the on-wing identification of these RAT components. DAL indicated that allowing operators to review airplane maintenance records to determine the supplier, part number, and serial number of the installed RAT actuators would prevent unnecessary work.

We do not agree with the commenter's request. One of the actions included in the requirement to determine the supplier, part number, and serial number of an installed RAT actuator is looking at the actuator's identification plate. An inspection of the RAT actuator is necessary to determine if the identification plate is present. Paragraphs (g)(3) and (h)(3) of this AD require certain actions if the identification plate of a RAT actuator is missing. We have not changed this AD regarding this issue.

Request To Refer To Revised Service Information

DAL requested that the references to Hamilton Sundstrand Service Bulletin ERPS06M–29–21, dated May 27, 2014, be changed to ERPS06M–29–21, Revision 1, dated April 14, 2015. DAL noted that the revised service information updates the identification procedures for the RAT actuators, among other changes.

We agree with the commenter that all references to Hamilton Sundstrand Service Bulletin ERPS06M–29–21, dated May 27, 2014, should be changed to ERPS06M–29–21, Revision 1, dated April 14, 2015, in this final rule. We have made this change in the "Related Service Information under 1 CFR part 51" section in the preamble and paragraphs (g)(1), (g)(2), (g)(3), and (j) of this AD. We have also included a new paragraph (k) in this AD to provide credit for actions done prior to the effective date of this AD using Hamilton Sundstrand Service Bulletin ERPS06M–29–21, dated May 27, 2014. The subsequent paragraphs have been redesignated accordingly.

Request To Change References to a Certain Related AD

DAL noted that the "Related ADs" section of the NPRM preamble, and paragraphs (b) and (i) of the proposed AD, referred to AD 2015–26–02, Amendment 39–18350 (80 FR 81174, December 29, 2015) ("AD 2015–26–02"), which was superseded by AD 2016–04–01, Amendment 39–18395 (81 FR 8134, February 18, 2016) ("AD 2016–04–01"). DAL suggested that the references to AD 2015–26–02 be removed and replaced with references to AD 2016–04–01.

We agree with the commenter's suggestion. The "Related ADs" section of the NPRM is not restated in this final rule, but we have revised paragraphs (b) and (i) of this AD to refer to AD 2016–04–01.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information, which describes procedures for identifying the supplier, part number, and serial number of the installed RAT actuator; modifying the RAT; and re-identifying the RAT actuator and RAT.

- Service Bulletin A330–29–3126, dated June 12, 2014.
- Service Bulletin A340–29–4097, dated June 12, 2014.
- Service Bulletin A340–29–5025, dated June 16, 2014.

Hamilton Sundstrand has issued Service Bulletins ERPS06M–29–21, Revision 1, dated April 14, 2015; and ERPS33T–29–7, dated June 6, 2014. This service information describes procedures for identifying the affected RAT actuator and RAT part numbers and serial numbers, modifying affected actuators, and re-identifying affected RAT actuators and RATs.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 84 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Identification	1 work-hour × $85 per hour = $85	None	$85	$7,140

We estimate the following costs to do any necessary replacements that will be required based on the results of the required inspection. We have no way of determining the number of airplanes that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Removal/installation/r re-identification	14 work-hours × $85 per hour = $1,190	$427,301	$428,491

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–14–01 Airbus: Amendment 39–18582. Docket No. FAA–2016–3983; Directorate Identifier 2015–NM–009–AD.

(a) Effective Date

This AD is effective August 16, 2016.

(b) Affected ADs

This AD affects the ADs specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD.

(1) AD 2012–21–19, Amendment 39–17235 (77 FR 65812, October 31, 2012) ("AD 2012–21–19").

(2) AD 2012–21–20, Amendment 39–17236 (77 FR 65799, October 31, 2012) ("AD 2012–21–20").

(3) AD 2016–04–01, Amendment 39–18395 (81 FR 8134, February 18, 2016) ("AD 2016–04–01").

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) through (c)(7) of this AD, certificated in any category.

(1) Airbus Model A330–223F and –243F airplanes, all manufacturer serial numbers; except those on which Airbus Modification 204067 has been embodied in production.

(2) Airbus Model A330–201, –202, –203, –223, and –243 airplanes, all manufacturer serial numbers; except those on which Airbus Modification 204067 has been embodied in production.

(3) Airbus Model A330–301, –302, –303, –321, –322, –323,– 341, –342, and –343 airplanes, all manufacturer serial numbers; except those on which Airbus Modification 204067 has been embodied in production.

(4) Airbus Model A340–211, –212, and –213, airplanes, all manufacturer serial numbers.

(5) Airbus Model A340–311, –312, and –313 airplanes, all manufacturer serial numbers.

(6) Airbus Model A340–541 airplanes, all manufacturer serial numbers.

(7) Airbus Model A340–642 airplanes, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic Power.

(e) Reason

This AD was prompted by a report indicating that, during an operational test of a ram air turbine (RAT), the RAT did not deploy in automatic mode. We are issuing this AD to prevent non-deployment of the RAT, which, if preceded by a total engine flame-out, or during a total loss of normal electrical power generation, could result in reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Identification and Replacement for Certain Airbus Model A330, and A340–200 and –300 Airplanes

For Airbus Model A330–200 Freighter series airplanes, Model A330–200 and –300 series airplanes, and Model A340–200 and –300 series airplanes: Within 30 months after the effective date of this AD, identify the supplier, part number, and serial number of the installed RAT actuator, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014; or Airbus Service Bulletin A340–29–4097, dated June 12, 2014; as applicable.

(1) If the supplier identified is Arkwin Industries, and the identified RAT actuator part number and serial number are listed in Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015, and the serial number is included in table 2 of Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015, with a description of "correctly shimmed": Within 30 months after the effective date of this AD, re-identify the actuator and the RAT, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014; or Airbus Service Bulletin A340–29–4097, dated June 12, 2014; as applicable.

(2) If the supplier identified is Arkwin Industries, and the identified actuator RAT part number and serial number are listed in Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015, and the serial number is included in table 2 of Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015, with a description of "incorrectly shimmed": Within 30 months after the effective date of this AD, remove the actuator from the RAT, install a modified actuator, and re-identify the RAT, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014; or Airbus Service Bulletin A340–29–4097, dated June 12, 2014; as applicable.

(3) If the supplier identified is Arkwin Industries, and the identification plate for the RAT actuator is missing, or the part number and serial number are not listed in Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015: Within 30 months after the effective date of this AD, remove the actuator from the RAT, install a modified actuator, and re-identify the RAT, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014; or Airbus Service Bulletin A340–29–4097, dated June 12, 2014; as applicable.

(h) Identification and Replacement for Certain Airbus Model A340–500 and –600 Airplanes

For Airbus Model A340–500 and –600 airplanes: Within 30 months after the effective date of this AD, identify the part number and serial number of the installed RAT actuator, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(1) If the identified RAT actuator part number and serial number are listed in Hamilton Sundstrand Service Bulletin ERPS33T–29–7, dated June 6, 2014, and the serial number is included in table 2 of Hamilton Sundstrand Service Bulletin ERPS33T–29–7, dated June 6, 2014, with a description of "correctly shimmed": Within 30 months after the effective date of this AD, re-identify the actuator and the RAT, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(2) If the identified RAT actuator part number and serial number are listed in Hamilton Sundstrand Service Bulletin ERPS33T–29–7, dated June 6, 2014, and the serial number is included in table 2 of Hamilton Sundstrand Service Bulletin ERPS33T–29–7, dated June 6, 2014, with a description of "incorrectly shimmed": Within 30 months after the effective date of this AD, remove the actuator from the RAT, install a modified actuator, and re-identify the RAT, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(3) If the identification plate for the RAT actuator is missing, or the part number and serial number are not listed in Hamilton Sundstrand Service Bulletin ERPS33T–29–7, dated June 6, 2014: Within 30 months after the effective date of this AD, remove the actuator from the RAT, install a modified actuator, and re-identify the RAT, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(i) Terminating Action for Certain Requirements of Other ADs

(1) For Airbus Model A330–200 Freighter, A330–200, and A330–300 series airplanes; and Model A340–200 and –300 series airplanes: Accomplishment of the actions required by paragraph (g)(1), (g)(2), or (g)(3) of this AD constitutes compliance with the requirements of paragraph (g)(1) of AD 2012–21–19, paragraph (g) of AD 2012–21–20, and paragraphs (g), (h), and (i) of AD 2016–04–01, for that airplane only.

(2) For Airbus Model A340–500 and –600 series airplanes: Accomplishment of the actions required by paragraphs (h)(1), (h)(2), and (h)(3) of this AD constitutes compliance with the requirements of paragraphs (h)(1) and (h)(2) of AD 2012–21–20, and paragraph (j) of 2016–04–01, for that airplane only.

(j) Parts Installation Limitations

As of the effective date of this AD, no person may install any RAT actuator or any RAT having a part number identified in table 1 to paragraph (j) of this AD on any airplane, unless it meets the conditions specified in paragraph (j)(1) or (j)(2) of this AD, as applicable.

TABLE 1 TO PARAGRAPH (j) OF THIS AD—AFFECTED PART NUMBERS

Affected Airbus airplane models	RAT part No.	RAT actuator part No.
Model A330–200 and –300 series airplanes	1720934C, 1720934D, 766351A, 768084A, 770379A, 770952C, 770952D, 770952E.	5912958, 5915768
Model A330–200 Freighter series airplanes	1720934C, 1720934D, 766351A, 768084A, 770379A, 770952C, 770952D, 770952E.	5912958, 5915768
Model A340–200 and –300 series airplanes	1720934C, 1720934D, 766351A, 768084A, 770379A, 770952C, 770952D, 770952E.	5912958, 5915768
Model A340–500 and –600 series airplanes	772722H, 772722J, 772722L	5912536, 5915769

(1) For Airbus Model A330–200 Freighter series airplanes; Model A330–200, and A330–300 series airplanes; and Model A340–200 and –300 series airplanes: The RAT actuator or RAT has a serial number listed as affected and modified in Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015, and the RAT has been re-identified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–29–3126, dated June 12, 2014; or Airbus Service Bulletin A340–29–4097, dated June 12, 2014.

(2) For Airbus Model A340–500 and –600 series airplanes: The RAT actuator or the RAT has a serial number listed as affected and modified in Hamilton Sundstrand

Service Bulletin ERPS33T–29–7, dated June 6, 2014, and the RAT has been re-identified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(k) Credit for Previous Actions

(1) This paragraph provides credit for the RAT and RAT actuator identification specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD if that identification was performed before the effective date of this AD using Hamilton Sundstrand Service Bulletin ERPS06M–29–21, dated May 27, 2014, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for the RAT or RAT actuator identification and modification specified in paragraph (j)(1) of this AD, if those actions were performed before the effective date of this AD using Hamilton Sundstrand Service Bulletin ERPS06M–29–21, dated May 27, 2014, which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any Airbus service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0008, dated January 15, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3983.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(4) and (n)(5) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A330–29–3126, dated June 12, 2014.

(ii) Airbus Service Bulletin A340–29–4097, dated June 12, 2014.

(iii) Airbus Service Bulletin A340–29–5025, dated June 16, 2014.

(iv) Hamilton Sundstrand Service Bulletin ERPS06M–29–21, Revision 1, dated April 14, 2015.

(v) Hamilton Sundstrand Service Bulletin ERPS33T–29–7, dated June 6, 2014.

(3) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(4) For Hamilton Sundstrand service information identified in this AD, contact Hamilton Sundstrand, Technical Publications, Mail Stop 302–9, 4747 Harrison Avenue, P.O. Box 7002, Rockford, IL 61125–7002; telephone 860–654–3575; fax 860–998–4564; email *tech.solutions@hs.utc.com;* Internet *http://www.hamiltonsundstrand.com.*

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on June 23, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–15929 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3987; Directorate Identifier 2015–NM–165–AD; Amendment 39–18580; AD 2016–13–15]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Dassault Aviation Model FALCON 7X airplanes. This AD was prompted by a report of improperly drilled bores, located on upper and lower stiffener joints to the Web at a certain frame. This AD requires a one-time inspection of the bores, and repair if necessary. We are issuing this AD to detect and correct an unsatisfactory bore that can adversely affect the structural integrity of the airplane.

DATES: This AD is effective August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 16, 2016.

ADDRESSES: For service information identified in this final rule, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone: 201–440–6700; Internet: *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3987.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3987; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–

5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Dassault Aviation Model FALCON 7X airplanes. The NPRM published in the **Federal Register** on March 1, 2016 (81 FR 10535) ("the NPRM").

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued Airworthiness Directive 2015–0204, dated October 8, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Dassault Aviation FALCON 7X airplanes. The MCAI states:

> On the assembly line of Falcon 7X airplanes, defects were detected on left hand and right hand engine pylons. A quality review revealed that bores located on upper and lower stiffener joints to the web at pylon Frame 41 were improperly drilled. Fettlings of borings, for fixing diameter 4 mm [millimeters] and 5 mm, were found ovalized, too deep and having irregular surface qualities under the head of fixing. Dassault Aviation identified the individual airplanes that are potentially affected by this production deficiency.
>
> This condition, if not detected and corrected, would adversely affect the structural integrity of the airplane.
>
> To address this potential unsafe condition Dassault Aviation published Service Bulletin (SB) 7X–346 to provide corrective action instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time [detailed] visual [and rototest] inspection for unsatisfactory bores and, depending on findings, repair of affected stiffener bores.

A bore is not satisfactory if it has any surface defects greater than or equal to 0.5 mm or if any chamfer dimension or edge distance value is not within the dimensions specified in Dassault Aviation Service Bulletin 7X–346, dated April 24, 2015. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3987.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD with the changes described previously except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Dassault Service Bulletin 7X–346, dated April 24, 2015. The service information describes procedures for a one-time inspection and repair of the bores on stiffeners at Frame 41 on the engine pylons.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 55 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	66 work-hours × $85 per hour = $5,610	$0	$5,610	$308,550

We estimate the following costs to do any necessary repair that would be required based on the results of the required inspection. We have no way of determining the number of airplanes that might need this repair:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	20 work-hours × $85 per hour = $1,700	$149	$1,849

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–13–15 Dassault Aviation: Amendment 39–18580. Docket No. FAA–2016–3987; Directorate Identifier 2015–NM–165–AD.

(a) Effective Date

This AD is effective August 16, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, manufacturer serial numbers 1 through 221 inclusive, except serial numbers 182 and 220.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report of improperly drilled bores, located on upper and lower stiffener joints to the web at a certain frame. We are issuing this AD to detect and correct an unsatisfactory bore that can adversely affect the structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspect Bores

Within 4,000 flight cycles or 98 months, whichever occurs first since date of issuance of the original airworthiness certificate or date of issuance of the original export certificate of airworthiness, do a detailed visual and rototest inspection of the bores, located on upper and lower stiffener joints to the web at pylon Frame 41, to determine if the bores are not satisfactory, in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–346, dated April 24, 2015.

(h) Repair

If, during the inspection required by paragraph (g) of this AD, it is determined that any bore is not satisfactory: Before further flight, repair affected bores, in accordance with the Accomplishment Instructions of Dassault Service Bulletin 7X–346, dated April 24, 2015, except as required by paragraph (i) of this AD.

(i) Exceptions

Where the Dassault Service Bulletin 7X–346, dated April 24, 2015, specifies to contact Dassault Aviation: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Dassault Aviation's EASA Design Organization Approval (DOA).

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Dassault Aviation's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0204, dated October 8, 2015, for related information. This MCAI may be found on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3987.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Dassault Service Bulletin 7X–346, dated April 24, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone: 201–440–6700; Internet: *http://www.dassaultfalcon.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on June 23, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–15930 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3632; Directorate Identifier 2015–NM–023–AD; Amendment 39–18590; AD 2016–14–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–14–06 for all Airbus Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, and –115 airplanes; Model A320–111, –211, –212, and –214 airplanes; and Model A321–111, –112, –211, –212, and –213 airplanes. AD 2014–14–06 required inspecting the aft engine mount retainers for surface finish, cracks, and failure, and replacement if necessary. This new AD requires repetitive inspections for damaged, cracked, broken, and missing aft engine mount retainers, and replacement if necessary. This AD was prompted by inspection results that have shown that the main cause of crack initiation in the aft engine mount retainers is the vibration dynamic effect that affects both retainers, either with "dull" or "bright" surface finishes. We are issuing this AD to detect and correct failure of retainer brackets of the aft engine mount and consequent loss of the locking feature of the nuts of the inner and outer pins; loss of the pins will result in the aft mount engine link no longer being secured to the aft engine mount.

DATES: This AD is effective August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of August 27, 2014 (79 FR 42655, July 23, 2014).

ADDRESSES: For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

For Goodrich Aerostructures service information identified in this AD, contact Goodrich *Aerostructures*, 850 Lagoon Drive, Chula Vista, CA 91910–2098; telephone 619–691–2719; email *jan.lewis@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3632.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3632; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–14–06, Amendment 39–17901 (79 FR 42655, July 23, 2014) ("AD 2014–14–06"). AD 2014–14–06 applied to all Model A318–111 and –112 airplanes; Model A319–111, –112, –113, –114, and –115 airplanes; Model A320–111, –211, –212, and –214 airplanes; and Model A321–111, –112, –211, –212, and –213 airplanes. The NPRM published in the **Federal Register** on September 17, 2015 (80 FR 55798) ("the NPRM"). The NPRM was prompted by inspection results that have shown that the main cause of crack initiation in the aft engine mount retainers is the vibration dynamic effect that affects both retainers, either with "dull" or "bright" surface finishes. The NPRM proposed to continue to require inspecting the aft engine mount retainers for surface finish, cracks, and failure, and replacement if necessary. The NPRM also proposed to require repetitive inspections for damaged, cracked broken, and missing aft engine mount retainers, and replacement if necessary. We are issuing this AD to detect and correct failure of retainer brackets of the aft engine mount and consequent loss of the locking feature of the nuts of the inner and outer pins; loss of the pins will result in the aft mount engine link no longer being secured to the aft engine mount.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0021, dated February 13, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition. The MCAI states:

> During in-service inspections, several aft engine mount retainers, fitted on aeroplanes equipped with CFM56–5A/5B engines, have been found broken. The results of the initial investigations highlighted that two different types of surface finish had been applied (respectively bright and dull material finishes), and that dull finish affects the strength of the retainer with regard to fatigue properties of the part. The pins which attach the engine link to the aft mount are secured by two nuts, which do not have a self-locking feature; this function is provided by the retainer brackets. In case of failure of the retainer bracket, the locking feature of the nuts of the inner and outer pins is lost; as a result, these nuts could subsequently become loose.
>
> In case of full loss of the nuts, there is the potential to also lose the pins, in which case the aft mount link will no longer be secured to the aft engine mount. The same locking feature is used for the three link assemblies of the aft mount.
>
> This condition, if not detected and corrected, could lead to in-flight loss of an aft mount link, possibly resulting in damage to the aeroplane and injury to person on the ground.
>
> To address this potential unsafe condition, EASA issued AD 2013–0050 (*http://ad.easa.europa.eu/blob/easa_ad_2013_0050_superseded.pdf/AD_2013-0050_1* [which corresponds to FAA AD 2014–14–06] to require detailed inspections (DET) of the aft engine mount retainers and the replacement of all retainers with dull finish with retainers having a bright finish.
>
> Since that [EASA] AD was issued, inspection results have shown that the main cause of crack initiation remains the vibration dynamic effect that affects both retainers, either with "dull" or "bright" surface finishes. The non-conforming "dull" surface's pitting is an aggravating factor.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013–0050, which is superseded, and requires repetitive DET of all aft engine mount retainers and, depending on findings [damaged, cracked, broken, or missing retainers], their replacement.
>
> This [EASA] AD is considered to be an interim action, pending development and availability of a final solution.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3632.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Use Alternative Inspection Method

Delta Airlines (DAL) requested that we revise paragraph (m) of the NPRM to approve use of a boroscope with 10X magnification when performing the inspection of the center aft engine mount inner retainer as an option to removing the center retainer. DAL stated that this procedure was allowed by the FAA in Alternative Method of Compliance (AMOC) ANM–116–14–423, dated September 16, 2014, for AD 2014–14–06. DAL stated that this procedure provides an equivalent level of safety since the detectability of the subject condition using this alternate inspection method is the same as a detailed visual inspection using 10X magnification, mirror, and light.

We disagree with DAL's request. AMOC ANM–116–14–423, dated September 16, 2014, provides an AMOC for replacing 10X magnification, mirror, and light with a boroscope with 10X magnification but that AMOC is not an option to removing the center retainer. However, under the provisions of paragraph (q)(1) of this AD, we will consider requests for approval of alternative procedures, if sufficient data are submitted to substantiate that the change would provide an acceptable level of safety. We have not changed this AD in this regard.

We have clarified in paragraph (q)(1)(ii) of this AD that AMOCs approved previously for AD 2014–14–06, are approved as AMOCs for the corresponding provisions of paragraphs (g) and (i) of this AD.

Request To Use Later Revisions of Service Information

DAL requested that we permit use of later approved revisions of the service information. DAL stated that Airbus has released Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015.

We partially agree with DAL's request. We do not agree to include an allowance for later approved revisions of the referenced service information. When referring to a specific service document in an AD, using the phrase, "or later FAA-approved revisions," violates the Office of the Federal Register's regulations for approving materials that are incorporated by reference. See 1 CFR 51.1(f).

However, affected operators may request approval to use a later revision of the referenced service document as an alternative method of compliance, under the provisions of paragraph (q)(1) of this AD. We have not changed this AD in this regard.

We agree to reference to Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015, in this final rule as the appropriate source of service information for accomplishing the actions required by paragraphs (l) and (m) of this AD (referred to as paragraphs (m) and (n) in the proposed AD).

We have also redesignated paragraph (l) of the proposed AD to paragraph (p)(1) of this AD (the paragraph retains existing credit information) and added new paragraphs (p)(2) and (p)(3) of this AD to provide provisional credit for Airbus Service Bulletin A320–71–1060, dated October 9, 2014. For operators to obtain credit for Airbus Service Bulletin A320–71–1060, dated October 9, 2014, for the replacement, operators must use the torque value units applicable to nut item (14) specified in Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015. Those torque value units were incorrectly stated in Airbus Service Bulletin A320–71–1060, dated October 9, 2014.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015. This service information describes procedures for inspecting the aft engine mount retainers for surface finish (dull or bright), for damaged, cracked, broken, or missing retainers, and replacement.

Goodrich Aerostructures has issued Service Bulletin RA32071–160, dated September 18, 2014. This service information describes procedures for inspecting the aft engine mount inner retainers for cracks or failure, and replacement.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 922 airplanes of U.S. registry.

The actions required by AD 2014–14–06, and retained in this AD, take about 3 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are were required by AD 2014–14–06 is $255 per inspection cycle per product (for two engines).

We also estimate that it would take about 10 work-hours per product to comply with the basic requirements of this AD, and 1 work-hour per product to report inspection findings. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $862,070, or $935 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours and require parts costing $10,000, for a cost of $10,170 per product. We have no way of determining the number of airplanes that might need these actions.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–14–06, Amendment 39–17901 (79 FR 42655, July 23, 2014), and adding the following new AD:

2016–14–09 Airbus: Amendment 39–18590. Docket No. FAA–2015–3632; Directorate Identifier 2015–NM–023–AD.

(a) Effective Date

This AD is effective August 16, 2016.

(b) Affected ADs

This AD replaces AD 2014–14–06, Amendment 39–17901 (79 FR 42655, July 23, 2014) ("AD 2014–14–06").

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) through (c)(4) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Airbus Model A318–111 and –112 airplanes.

(2) Airbus Model A319–111, –112, –113, –114, and –115 airplanes.

(3) Airbus Model A320–211, –212, and –214 airplanes.

(4) Airbus Model A321–111, –112, –211, –212, and –213 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Reason

This AD was prompted by inspection results that have shown that the main cause of crack initiation in the aft engine mount retainers is the vibration dynamic effect that affects both retainers, either with "dull" or "bright" surface finishes. We are issuing this AD to detect and correct failure of retainer brackets of the aft engine mount and consequent loss of the locking feature of the nuts of the inner and outer pins; loss of the pins will result in the aft mount engine link no longer being secured to the aft engine mount.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Inspection, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2014–14–06, with no changes. Within 3 months after August 27, 2014 (the effective date of AD 2014–14–06): Do a detailed inspection of the aft engine mount retainers for surface finish (dull or bright), and for cracks and failure, in accordance with Section 4.2.2, "Inspection Requirements," of Airbus Alert Operators Transmission (AOT) A71N001–12, Rev. 2, dated February 27, 2013, except as specified in paragraph (h) of this AD.

(h) Retained Exception to Paragraph (g) of This AD, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2014–14–06, with no changes. The actions required by paragraph (g) of this AD are not required to be done on airplanes with manufacturer serial numbers 4942 and higher, provided a review of maintenance records verifies that no aft engine mount retainers have been replaced since first flight of the airplane.

(i) Retained Repetitive Inspection and Retainer Replacement for Dull Finish Retainers, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2014–14–06, with no changes. If, during the detailed inspection required by paragraph (g) of this AD, any installed dull finish aft engine mount retainer is found without cracks and not failed: Do the actions specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) Within 25 flight cycles after doing the actions required by paragraph (g) of this AD: Repeat the detailed inspection specified in paragraph (g) of this AD.

(2) Within 50 flight cycles after doing the first detailed inspection specified in paragraph (g) of this AD: Replace all dull finish retainers with new retainers, in accordance with Section 4.2.3.1, "Replacement Procedure," of Airbus AOT A71N001–12, Rev. 2, dated February 27, 2013.

(j) Retained Replacement of Cracked or Failed Retainers, With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2014–14–06, with no changes. If, during any detailed inspection specified in paragraph (g) of this AD, any installed aft engine mount retainer is found cracked or failed: Before further flight, replace all affected aft engine mount retainers with new retainers, in accordance with Section 4.2.3, "Replacement Procedure," of Airbus AOT A71N001–12, Rev. 2, dated February 27, 2013.

(k) Retained Parts Prohibition, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2014–14–06, with no changes. As of August 27, 2014 (the effective date of AD 2014–14–06), no person may install any aft engine mount retainer with a dull finish on any airplane. The instructions of Airbus AOT A71N001–12, Rev. 2, dated February 27, 2013; or the Accomplishment Instructions of Goodrich Service Bulletin RA32071–146, Rev. 2, dated July 26, 2012; may be used to verify the correct finish of the part.

(l) New Requirement of This AD: Repetitive Inspections

At the latest of the applicable times specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD: Do a detailed inspection for damaged, cracked, broken, or missing aft engine mount retainers, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015; or Goodrich Service Bulletin RA32071–160, dated September 18, 2014. Repeat the inspection of the aft engine mount retainers thereafter at intervals not to exceed 12 months.

(1) Within 12 months since the date of issuance of the original airworthiness certificate or the date of issuance of the original export certificate of airworthiness.

(2) Within 12 months after installation of new retainers.

(3) Within 9 months after the effective date of this AD.

(m) New Requirement of This AD: Replacement of Retainers With Findings

If, during any detailed inspection specified in paragraph (l) of this AD, any installed aft engine mount retainer is found damaged, cracked, broken, or missing: Before further flight, replace all affected aft engine mount retainers with new retainers, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015.

(n) New Requirement of This AD: No Terminating Action

Replacement of retainers on an airplane, as required by paragraph (m) of this AD, does not constitute terminating action for the repetitive inspections required by paragraph (l) of this AD for that airplane.

(o) New Requirement of This AD: Required Reporting

Submit a report of positive findings of any inspection required by paragraph (l) of this AD to Airbus at the applicable time specified in paragraph (o)(1) or (o)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(p) Credit for Previous Actions

(1) This paragraph restates the provisions of paragraph (l) of AD 2014–14–06, with no changes. This paragraph provides credit for actions required by paragraphs (g), (i), and (j) of this AD, if those actions were performed before August 27, 2014 (the effective date of AD 2014–14–06) using Airbus AOT A71N001–12, Rev. 1, dated August 9, 2012. This service information is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (l) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–71–1060, dated October 9, 2014. Airbus Service Bulletin A320–71–1060, dated October 9, 2014, is not incorporated by reference in this AD.

(3) This paragraph provides credit for actions required by paragraph (m) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–71–1060, dated October 9, 2014, provided that it can be conclusively determined that the torque value units applicable to nut item (14) that are specified in Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015, have been used. Airbus Service Bulletin A320–71–1060, dated October 9, 2014, is not incorporated by reference in this AD.

(q) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2014–14–06, are approved as AMOCs for the corresponding provisions of paragraphs (g), (i), (j), and (k) of this AD.

(2) Contacting the Manufacturer: As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) Reporting Requirements: A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(4) Required for Compliance (RC): If any Airbus service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(r) Special Flight Permits

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(s) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0021, dated February 13, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3632.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (t)(5), (t)(6), and (t)(7) of this AD.

(t) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on August 16, 2016.

(i) Airbus Service Bulletin A320–71–1060, Revision 01, dated April 7, 2015.

(ii) Goodrich Service Bulletin RA32071–160, dated September 18, 2014.

(4) The following service information was approved for IBR on August 27, 2014 (79 FR 42655, July 23, 2014).

(i) Airbus Alert Operators Transmission A71N001–12, Rev. 2, dated February 27, 2013. The first page of this document contains the document number, revision, and date; no other page of this document contains this information.

(ii) Goodrich Service Bulletin RA32071–146, Rev. 2, dated July 26, 2012.

(5) For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(6) For Goodrich Aerostructures service information identified in this AD, contact Goodrich *Aerostructures,* 850 Lagoon Drive, Chula Vista, CA 91910–2098; telephone 619–691–2719; email *jan.lewis@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

(7) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(8) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 1, 2016.

Phillip Forde,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–16212 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–0459; Directorate Identifier 2015–NM–081–AD; Amendment 39–18589; AD 2016–14–08]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2015–10–03 for certain Airbus Model A330–200 and –300 series airplanes, and Model A340–200 and –300 series airplanes. AD 2015–10–03 required a detailed inspection for visible chrome of each affected main landing gear (MLG) sidestay upper cardan pin, associated nuts, and retainer assembly; pin replacement if needed; measurement of cardan pin clearance dimensions (gap check); corrective actions if necessary; and a report of all findings. This new AD requires a detailed inspection of the upper cardan pin and nut threads for any corrosion, pitting, or thread damage, and if necessary, replacement of the cardan pin and nut. This new AD also revises the applicability to include additional airplane models. This AD was prompted by a report that an MLG sidestay upper cardan pin migration event had been caused by corrosion due to lack of jointing compound and inadequate sealant application during the MLG installation. We are issuing this AD to detect and correct migration of the sidestay upper cardan pin, which could result in disconnection of the sidestay upper arm from the airplane structure, and could result in a landing gear collapse and consequent damage to the airplane and injury to occupants.

DATES: This AD is effective August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 16, 2016.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–0459.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–0459; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–10–03, Amendment 39–18158 (80 FR 30608, May 29, 2015) (“AD 2015–10–03”). AD 2015–10–03 applied to certain Airbus Model A330–200 and –300 series airplanes, and Model A340–200 and –300 series airplanes. The NPRM published in the **Federal Register** on January 21, 2016 (81 FR 3346) (“the NPRM”).

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0079, dated May 7, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Airbus Model A330–200 and –300 series airplanes, Model A340–200 and –300 series airplanes, and Model A340–541 and –642 airplanes. The MCAI states:

> An A330 aeroplane equipped with Basic MLG was rolling out after landing when it experienced a nose wheel steering fault (unrelated to the safety subject addressed by this AD), which resulted in the crew stopping the aeroplane on the taxiway after vacating the runway. The subsequent investigation revealed that the right-hand MLG sidestay upper cardan pin had migrated out of position. The sidestay upper cardan nut and retainer had detached from the upper cardan pin and were found, still bolted together, in the landing gear bay.
>
> Prompted by these findings, Airbus published Alert Operators Transmission (AOT) A32L003–14, providing inspection instructions and, as an interim solution, EASA issued AD 2014–0066 [which corresponds to FAA AD 2015–10–03, Amendment 39–18158 (80 FR 30608, May 29, 2015)] to require repetitive detailed inspections (DET) of the MLG upper cardan pin, nut and retainer. That AD also required accomplishment of a one-time gap check between wing rear spar fitting lugs and the bush flanges and, depending on findings, corrective action(s). The gap check (including corrections, as necessary) terminated the repetitive DET.
>
> Since that [EASA] AD was issued, further investigation concluded that the reported MLG sidestay upper cardan pin migration event had been caused by corrosion, due to lack of jointing compound and inadequate sealant application during MLG installation. Therefore, this issue affects any MLG that had an upper cardan pin replacement or re-installation, irrespective of MLG overhaul. Any corrosion on the upper cardan pin and nut threads would not have been detected during the previously required DET.
>
> This condition, if not detected and corrected, could lead to a complete migration of the sidestay upper cardan pin and a disconnection of the sidestay upper arm from the aeroplane structure, possibly resulting in MLG collapse with consequent damage to the aeroplane and injury to occupants.
>
> To address this potential unsafe condition, Airbus published Service Bulletin (SB) A330–32–3269, SB A340–32–4301 and SB A340–32–5115 providing inspection instructions. In addition, to prevent any improper re-installation of an upper cardan pin on a MLG, Airbus amended the applicable Aircraft Maintenance Manual (AMM) on 01 October 2014.
>
> For the reasons described above, this [EASA] AD supersedes EASA [AD] 2014–0066 and requires a one-time DET of the MLG upper cardan pin and nut threads to check for corrosion or damage on the upper cardan pin and nut threads, and, depending on findings, replacement of the damaged part(s).
>
> As this unsafe condition could also develop on A330 freighters and A340–500/–600 aeroplanes, this [EASA] AD also applies to those aeroplanes.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–0459.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM and the FAA’s response to that comment.

Request To Use the Latest Service Information

American Airlines (AA) requested that we use the latest service information in the NPRM. AA stated that since the NPRM was issued, Airbus released Service Bulletin A330–32–3269, Revision 01, dated December 3, 2015.

We agree with the commenter for the reasons stated above. We have reviewed Airbus Service Bulletin A330–32–3269, Revision 01, dated December 3, 2015, and there are no substantial changes. In addition, we have also reviewed Airbus Service Bulletin A340–32–4301, Revision 01, dated December 3, 2015; and Airbus Service Bulletin A340–32–5115, Revision 01, dated December 11, 2015. There are no substantial changes. We have revised this AD accordingly.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information:

- Airbus Service Bulletin A330–32–3269, Revision 01, dated December 3, 2015.
- Airbus Service Bulletin A340–32–4301, Revision 01, dated December 3, 2015.
- Airbus Service Bulletin A340–32–5115, Revision 01, dated December 11, 2015.

The service information describes procedures for a detailed inspection of the upper cardan pin and nut threads for any corrosion, pitting, or thread damage, and replacement of the cardan pin and nut. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 95 airplanes of U.S. registry.

We also estimate that it will take about 11 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $88,825, or $935 per product.

In addition, we estimate that any necessary follow-on actions will take about 12 work-hours and require parts costing $78,136, for a cost of $79,156 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–10–03, Amendment 39–18158 (80 FR 30608, May 29, 2015), and adding the following new AD:

2016–14–08 Airbus: Amendment 39–18589. Docket No. FAA–2016–0459; Directorate Identifier 2015–NM–081–AD.

(a) Effective Date

This AD is effective August 16, 2016.

(b) Affected ADs

This AD replaces 2015–10–03, Amendment 39–18158 (80 FR 30608, May 29, 2015).

(c) Applicability

This AD applies to the airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, except airplanes on which an upper cardan pin on a main landing gear (MLG) has never been replaced or reinstalled since first entry into service of the airplane.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, all manufacturer serial numbers.

(2) Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes, all manufacturer serial numbers.

(3) Airbus Model A340–541 and –642 airplanes, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a report that an MLG sidestay upper cardan pin migration event had been caused by corrosion due to lack of jointing compound and inadequate sealant application during the MLG installation. We are issuing this AD to detect and correct migration of the sidestay upper cardan pin, which could result in disconnection of the sidestay upper arm from the airplane structure, and could result in a landing gear collapse and consequent damage to the airplane and injury to occupants.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition

For the purpose of this AD, an upper cardan pin on a MLG is affected if it has been installed as a replacement part, or reinstalled since first entry of the airplane into service, and if the installation was accomplished using the applicable airplane maintenance manual at a revision level prior to October 1, 2014.

(h) Inspection and Replacement

(1) For an affected upper cardan pin on an MLG: Before exceeding 96 months since its latest installation on an airplane, or within 12 months after the effective date of this AD, whichever occurs later, do a detailed inspection of the upper cardan pin and nut threads for any corrosion, pitting, or thread damage, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraph (i) of this AD.

(2) If, during the detailed inspection specified in paragraph (h)(1) of this AD, any corrosion, pitting, or thread damage is found, before further flight, replace the upper cardan pin and/or nut, as applicable, in accordance with the Accomplishment Instructions of the applicable service information specified in paragraph (i) of this AD.

(i) Applicable Service Information

Do the actions required by paragraph (h) of this AD in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD.

(1) Airbus Service Bulletin A330–32–3269, Revision 01, dated December 3, 2015 (for Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes).

(2) Airbus Service Bulletin A340–32–4301, Revision 01, dated December 3, 2015 (for Airbus Model A340–211, –212, –213, –311, –312, and –313 airplanes).

(3) Airbus Service Bulletin A340–32–5115, Revision 01, dated December 11, 2015 (for Airbus Model A340–541 and –642 airplanes).

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD. This service information is not incorporated by reference in this AD.

(1) Airbus Service Bulletin A330–32–3269, dated February 17, 2015.

(2) Airbus Service Bulletin A340–32–4301, dated February 17, 2015.

(3) Airbus Service Bulletin A340–32–5115, dated February 17, 2015.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM 116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0079, dated May 7, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–0459.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (m)(4) of this AD.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Service Bulletin A330–32–3269, Revision 01, dated December 3, 2015.

(ii) Airbus Service Bulletin A340–32–4301, Revision 01, dated December 3, 2015.

(iii) Airbus Service Bulletin A340–32–5115, Revision 01, dated December 11, 2015.

(3) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on June 28, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–16316 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–8129; Directorate Identifier 2014–NM–197–AD; Amendment 39–18573; AD 2016–13–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. This AD was prompted by a determination that certain maintenance tasks for the horizontal stabilizer trim actuator (HSTA) are inadequate. This AD requires revising the maintenance or inspection program, as applicable, to incorporate new airworthiness limitations for the HSTA. We are issuing this AD to detect and correct premature wear and cracking of the HSTA, which could result in failure of the HSTA and consequent loss of control of the airplane.

DATES: This AD becomes effective August 16, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 16, 2016.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center, toll-free telephone 1–866–538–1247, or direct dial telephone 1–514–855–2999; fax 1–514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8129.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8129; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. The NPRM published in the **Federal Register** on January 4, 2016 (81 FR 32) (“the NPRM”). The NPRM was prompted by a determination that certain maintenance tasks for the HSTA are inadequate. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new airworthiness limitations for the HSTA. We are issuing this AD to detect and correct premature wear and cracking of the HSTA, which could result in failure of the HSTA and consequent loss of control of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–30, dated September 5, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes. The MCAI states:

> A revision has been made to the CL 604/605 Time Limits/Maintenance Checks (TLMC) manual, to introduce new tasks for the HSTA. Failure to comply with the TLMC tasks could lead to an unsafe condition.
>
> This [Canadian] AD is issued to ensure that premature wear and cracking of the affected components are detected and corrected.

The unsafe condition is premature wear and cracking of the HSTA, which could result in failure of the HSTA and consequent loss of control of the airplane.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8129.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the NPRM and the FAA’s response to that comment.

Request To Change the Manufacturer’s Contact Information

Bombardier Inc., asked that we change the contact information to include the telephone numbers and email address for the Widebody Customer Response Center. Bombardier Inc. provided the updated information.

We agree with the commenter. We have changed the contact information in this AD accordingly.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

Bombardier Inc. has issued the following service information, which describes procedures for revising the maintenance or inspection program to incorporate new airworthiness limitations for the HSTA.

- Section 5–10–40, Certification Maintenance Requirements, of Part 2, Airworthiness Limitations, of the Bombardier Challenger 604 Time Limits/Maintenance Checks Manual, Revision 22, dated July 11, 2014.
- Section 5–10–40, Certification Maintenance Requirements, of Part 2, Airworthiness Limitations, of the Bombardier Challenger 605 Time Limits/Maintenance Checks Manual, Revision 10, dated July 11, 2014.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 78 airplanes of U.S. registry.

We also estimate that it takes about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $6,630, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. “Subtitle VII: Aviation Programs,” describes in more detail the scope of the Agency’s authority.

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–13–09 Bombardier, Inc.: Amendment 39–18573. Docket No. FAA–2015–8129; Directorate Identifier 2014–NM–197–AD.

(a) Effective Date

This AD becomes effective August 16, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B16 (CL–604 Variant) airplanes, certificated in any category, serial numbers (S/Ns) 5301 through 5665 inclusive, and 5701 through 5962 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by a determination that certain maintenance tasks for the horizontal stabilizer trim actuator (HSTA) are inadequate. We are issuing this AD to detect and correct premature wear and cracking of the HSTA, which could result in failure of the HSTA and consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD: Revise the maintenance or inspection program, as applicable, to incorporate Task 27–42–01–109, Restoration (Overhaul) of the Horizontal Stabilizer Trim Actuator, Part No. 604–92305–7 and Subs (Vendor Part No. 8454–3 and Subs); and Task 27–42–01–111, Detailed Inspection of the Horizontal Trim Actuator (HSTA) Secondary Load Path Indicator, Part No. 604–92305–7 and Subs (Vendor Part No. 8454–3 and Subs); of the applicable document identified in paragraph (g)(1) or (g)(2) of this AD.

(1) For Model CL–600–2B16 (CL–604 Variant) airplanes, serial numbers 5301 through 5665 inclusive: Section 5–10–40, Certification Maintenance Requirements, of Part 2, Airworthiness Limitations, of the Bombardier Challenger 604 Time Limits/Maintenance Checks Manual, Revision 22, dated July 11, 2014.

(2) For Model CL–600–2B16 (CL–604 Variant) airplanes, serial numbers 5701 through 5962 inclusive: Section 5–10–40, Certification Maintenance Requirements, of Part 2, Airworthiness Limitations, of the Bombardier Challenger 605 Time Limits/Maintenance Checks Manual, Revision 10, dated July 11, 2014.

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised, as required by paragraph (g) of this AD, no alternative actions (*e.g.*, inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–30, dated September 5, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–8129.

(k) Material Incorporated by Reference

(1) The Director of the **Federal Register** approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Section 5–10–40, Certification Maintenance Requirements, of Part 2, Airworthiness Limitations, of the Bombardier Challenger 604 Time Limits/Maintenance Checks Manual, Revision 22, dated July 11, 2014.

(ii) Section 5–10–40, Certification Maintenance Requirements, of Part 2, Airworthiness Limitations, of the Bombardier Challenger 605 Time Limits/Maintenance Checks Manual, Revision 10, dated July 11, 2014.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center, toll-free telephone 1–866–538–1247, or direct dial telephone 1–514–855–2999; fax 1–514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on June 21, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–15354 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 39

[Docket No. RM15–25–000; Order No. 824]

Availability of Certain North American Electric Reliability Corporation Databases to the Commission

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) amends its regulations to require the North American Electric Reliability Corporation (NERC) to provide the Commission, and Commission staff, with access, on a non-public and ongoing basis, to certain databases compiled and maintained by NERC. The amended regulation applies to the following NERC databases: The Transmission Availability Data System, the Generating Availability Data System, and the protection system misoperations database. Access to these databases, which will be limited to data regarding U.S. facilities provided to NERC on a mandatory basis, will provide the Commission with information necessary to determine the need for new or modified Reliability Standards and to better understand NERC's periodic reliability and adequacy assessments.

DATES: *Effective date:* This rule will become effective July 12, 2016.

Compliance date: The compliance date is based on issuance of the final rule in Docket No. RM16–15–000. The Commission will publish a document in the **Federal Register** announcing the compliance date.

FOR FURTHER INFORMATION CONTACT:

Raymond Orocco-John (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6593, *Raymond.Orocco-John@ferc.gov.*

Julie Greenisen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6362, *julie.greenisen@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Order No. 824

Final Rule

1. The Commission amends its regulations, pursuant to section 215 of the Federal Power Act (FPA),[1] to require the North American Electric Reliability Corporation (NERC) to provide the Commission, and Commission staff, with access, on a non-public and ongoing basis, to certain databases compiled and maintained by NERC. The amended regulation applies to the following NERC databases: (1) The Transmission Availability Data System (TADS), (2) the Generating Availability Data System (GADS), and (3) the protection system misoperations database. Access to these databases, which will be limited to data regarding U.S. facilities provided to NERC on a mandatory basis, will provide the Commission with information necessary to determine the need for new or modified Reliability Standards and to better understand NERC's periodic reliability and adequacy assessments.

I. Background

A. Section 215 and Order No. 672

2. Section 215 of the FPA requires the Commission to certify an Electric Reliability Organization (ERO), responsible for developing mandatory and enforceable Reliability Standards, subject to Commission review and approval. Reliability Standards may be enforced by NERC, subject to Commission oversight, or by the Commission independently.[2] In addition, section 215(g) of the FPA requires the ERO to conduct periodic assessments of the reliability and adequacy of the Bulk-Power System in North America.[3] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[4] and subsequently certified NERC as the ERO.

3. Section 39.2(d) of the Commission's regulations requires NERC and each Regional Entity to "provide the Commission such information as is necessary to implement section 215 of the Federal Power Act."[5] Section 39.2(d) of the Commission's regulations also requires each user, owner and operator of the Bulk-Power System within the United States (other than Alaska and Hawaii) to provide the Commission, NERC and each applicable Regional Entity with "such information as is necessary to implement section 215 of the Federal Power Act as determined by the Commission and set out in the Rules of the Electric Reliability Organization and each applicable Regional Entity."[6]

4. The Commission promulgated section 39.2(d) of its regulations in Order No. 672.[7] The Commission explained in Order No. 672 that:

> The Commission agrees . . . that, to fulfill its obligations under this Final Rule, the ERO or a Regional Entity will need access to certain data from users, owners and operators of the Bulk-Power System. Further, the Commission will need access to such information as is necessary to fulfill its oversight and enforcement roles under the statute.[8]

B. NERC Databases

5. NERC conducts ongoing, mandatory data collections from registered entities to populate databases for transmission outages through TADS, generation outages through GADS, and protection system misoperations through NERC's protection system misoperations database. Each of these NERC databases is discussed below.

1. TADS Database

6. NERC initiated collection of TADS data on a mandatory basis in 2007 by issuing a data request pursuant to section 1600 of the NERC Rules of Procedure.[9] The request required that, beginning in January 2008, applicable entities provide certain data for the TADS database based on a common template.[10] In 2010, NERC expanded its collection of TADS data to include additional fields of information on transmission outages.[11]

7. The TADS database compiles transmission outage data in a common format for: (1) Bulk electric system AC circuits (overhead and underground); (2) transmission transformers (except generator step-up units); (3) bulk electric system AC/DC back-to-back converters; and (4) bulk electric system DC circuits.[12] The TADS data collection template includes the following information fields: (1) Type of facilities, (2) outage start time and duration, (3) event type, (4) initiating cause code, and (5) sustained cause code (for sustained outages).[13] "Cause codes" for common causes of transmission outages include: (1) Lightning, (2) fire, (3) vandalism, (4) failed equipment (with multiple sub-listings), (5) vegetation, and (6) "unknown."[14] There were 10,787 reported TADS events between 2012 and 2014.[15]

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[1] 16 U.S.C. 824o.

[2] 16 U.S.C. 824o(e).

[3] *Id.* 824o(g).

[4] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, *order on reh'g*, Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (2006).

[5] 18 CFR 39.2(d).

[6] *Id.*

[7] Order No. 672, FERC Stats. & Regs. ¶ 31,204 at P 114.

[8] *Id.*

[9] *See generally* NERC, Summary of Phase I TADS Data Collection (November 9, 2007), *http://www.nerc.com/pa/RAPA/tads/TADSTF%20Archives%20DL/TADS_Data_Request_Summary.pdf.*

[10] *See generally* NERC, Transmission Availability Data System (TADS) Data Reporting Instruction Manual (November 20, 2007), *http://www.nerc.com/comm/PC/Transmission%20Availability%20Data%20System%20Working%20Grou/TADSTF%20Archives/Data_Reporting_Instr_Manual_11_20_07.pdf.*

[11] *See generally* NERC, Transmission Availability Data System Phase II Final Report (September 11, 2008), *http://www.nerc.com/pa/RAPA/tads/TransmissionAvailabilityDataSyatemRF/TADS_Phase_II_Final_Report_091108.pdf.*

[12] *See* NERC TADS Home Page, *http://www.nerc.com/pa/RAPA/tads/Pages/default.aspx.*

[13] *See* Transmission Availability Data System (TADS) Data Reporting Instruction Manual (August 1, 2014), *http://www.nerc.com/pa/RAPA/tads/Documents/2015_TADS_DRI.pdf.*

[14] *See* Transmission Availability Data System Definitions (August 1, 2014), *http://www.nerc.com/pa/RAPA/tads/Documents/2015_TADS_Appendix_7.pdf.*

[15] *See, e.g.*, NERC, State of Reliability 2015, Appendix A (Statistical Analysis for Risk Issue

Continued

8. NERC uses TADS data to develop transmission metrics to analyze outage frequency, duration, causes, and other factors related to transmission outages.[16] NERC also provides individual transmission owners with TADS metrics for their facilities.[17] NERC issues an annual public report based on TADS data that shows aggregate metrics for each NERC Region, with the underlying data accorded confidential treatment.[18]

2. GADS Database

9. NERC's collection of GADS data has been mandatory since 2012, pursuant to a data request issued in accordance with section 1600 of the NERC Rules of Procedure.[19] The GADS database collects, records, and retrieves operating information on power plant availability, including event, performance, and design data.[20] GADS data are used to support equipment reliability and availability analyses, as well as benchmarking studies.[21]

10. Currently, GADS collects outage data pertaining to ten types of conventional generating units with capacity of 20 MW and larger, including: (1) Fossil steam including fluidized bed design; (2) nuclear; (3) gas turbines/jet engines; (4) internal combustion engines (diesel engines); (5) hydro units/pumped storage; (6) combined cycle blocks and their related components; (7) cogeneration blocks and their related components; (8) multi-boiler/multi-turbine units; (9) geothermal units; and (10) other miscellaneous conventional generating units (*e.g.*, biomass, landfill gases).[22] The GADS data collection template includes the following design, event, and performance information: (1) Design records, (2) event records, and (3) performance records.[23] Design records refer to the characteristics of each unit such as GADS utility code,[24] GADS unit code,[25] NERC Regional Entity where the unit is located, name of the unit, commercial operating date, and type of generating unit (fossil, combined cycle, etc.).[26] Event records include information about when and to what extent the generating unit could not generate power.[27] Performance records refer to monthly generation, unit-attempted starts, actual starts, summary event outage information, and fuels.[28] NERC has developed "cause codes" for the identification of common causes of unit outages based on the type of generating unit.[29] For example, the cause codes section for fossil steam units includes codes for the boiler, steam turbine, generator, balance of plant, pollution control equipment, external, regulatory, safety and environmental, personnel errors, and performance testing.[30] For 2011–2013, the GADS database contains data from more than 5,000 units.[31]

11. NERC uses GADS data to measure generation reliability and publishes aggregate performance metrics for each NERC Region in publicly available annual state of reliability and reliability assessment reports.[32] The underlying data are typically accorded confidential treatment.

3. Protection System Misoperations Database

12. The reporting of protection system misoperations data by transmission owners, generator owners and distribution providers has been mandatory since 2011 pursuant to Reliability Standard PRC–004.[33] Following implementation of Reliability Standard PRC–004–4, the obligation to report misoperation data will remain mandatory but will be accomplished through a data request pursuant to section 1600 of the NERC Rules of Procedure.[34]

13. Currently, the protection system misoperations database collects more than 20 data fields for a reportable misoperation event, including: (1) Misoperation date; (2) event description; (3) protection systems/components that misoperated; (4) equipment removed from service (permanently or temporarily) as the result of the misoperation; (5) misoperation category; and (6) cause(s) of misoperation.[35] For 2014, the protection system misoperations database contains information on approximately 2,000 misoperation events.[36]

14. Protection system misoperations have exacerbated the severity of most cascading power outages, having played a significant role in the August 14, 2003 Northeast blackout, for example.[37] NERC uses protection system misoperations data to assess protection system performance and trends in protection system performance that may negatively impact reliability.[38] NERC publishes aggregate misoperation

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Identification and Transmission Outage Severity Analysis) at 86 (May 2015), *http://www.nerc.com/pa/RAPA/PA/Performance%20Analysis%20DL/2015%20State%20of%20Reliability.pdf*. The most recent data reported by NERC for TADS events is for the period 2012–2014.

[16] *See* NERC TADS Home Page.

[17] *Id.*

[18] *Id.*

[19] *See* NERC, Generating Availability Data System Mandatory Reporting of Conventional Generation Performance Data at 2 (July 2011), *http://www.nerc.com/pa/RAPA/gads/MandatoryGADS/Revised_Final_Draft_GADSTF_Recommendation_Report.pdf; see also* NERC GADS Home Page, *http://www.nerc.com/pa/RAPA/gads/Pages/default.aspx*.

[20] *See* NERC GADS Home Page.

[21] *Id.*

[22] Generating Availability Data System Mandatory Reporting of Conventional Generation Performance Data at 15.

[23] *Id.*, Appendix V (Rules of Procedure Section 1600 Justification) at 35.

[24] The GADS utility code is a code number referencing the utility that owns a generator.

[25] The GADS unit code is a code name referencing the generating unit involved. The GADS unit code may or may not contain the name of the generator owner.

[26] *Id.*

[27] *Id.*

[28] *Id.*

[29] NERC, Generating Availability Data System Data Reporting Instructions (January 1, 2015), Appendix B (Index to System/Component Cause Codes) at 1, *http://www.nerc.com/pa/RAPA/gads/DataReportingInstructions/Appendix_B1_Fossil_Steam_Unit_Cause_Codes.pdf*. The most recent data reported by NERC for GADS events is for the period 2011–2013.

[30] *Id.*

[31] State of Reliability 2015, Appendix B (Analysis of Generation Data) at 107.

[32] *See, e.g., id.*, Appendix B (Analysis of Generation Data).

[33] The Commission approved Reliability Standard PRC–004–1 (Analysis and Reporting of Transmission Protection System Misoperations) in Order No. 693. *Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, FERC Stats. & Regs. ¶ 31,242, at PP 1467–1469, *order on reh'g*, Order No. 693–A, 120 FERC ¶ 61,053 (2007). The Commission subsequently approved the following revisions and interpretations to Reliability Standard PRC–004, which was first renamed Analysis and Mitigation of Transmission and Generation Protection System Misoperations and then renamed Protection System Misoperation Identification and Correction: Reliability Standards PRC–004–1a, PRC–004–2, PRC–004–2a, PRC–004–2.1a, PRC–004–2.1(i)a, PRC–004–3, and PRC–004–4. *See North American Electric Reliability Corp.*, 136 FERC ¶ 61,208 (2011) (approving interpretation resulting in Reliability Standard PRC–004–1a and Reliability Standard PRC–004–2a); *North American Electric Reliability Corp.*, 134 FERC ¶ 61,015 (2011) (approving Reliability Standard PRC–004–2); *Generator Requirements at the Transmission Interface*, Order No. 785, 144 FERC ¶ 61,221 (2013) (approving Reliability Standard PRC–004–2.1a); *North American Electric Reliability Corp.*, 151 FERC ¶ 61,129 (2015) (approving Reliability Standard PRC–004–3); *North American Electric Reliability Corp.*, 151 FERC ¶ 61,186 (2015) (approving Reliability Standards PRC–004–2.1(i)a and PRC–004–3); *North American Electric Reliability Corp.*, Docket No. RD15–5–000 (Nov. 19, 2015) (delegated letter order) (approving Reliability Standard PRC–004–4); *North American Electric Reliability Corp.*, Docket No. RD14–14–001, et al. (Dec. 4, 2015) (delegated letter order) (approving Reliability Standard PRC–004–4(i) and PRC–004–5(i)).

[34] *See generally* NERC, Request for Data or Information Protection System Misoperation Data Collection (August 14, 2014), *http://www.nerc.com/pa/RAPA/ProctectionSystemMisoperations/PRC-004-3%20Section%201600%20Data%20Request_20140729.pdf*. Reliability Standard PRC–004–4 will become enforceable on July 1, 2016.

[35] *Id.* at 13–14*; see also* NERC, Protection System Misoperations Home Page, *http://www.nerc.com/pa/RAPA/ri/Pages/ProtectionSystemMisoperations.aspx*.

[36] State of Reliability 2015 at 47.

[37] *See* Request for Data or Information Protection System Misoperation Data Collection at 5.

[38] *See id.* at 14.

information for each NERC Region in annual public state of reliability reports, with the underlying data being accorded confidential treatment.[39]

C. NOPR

15. On September 17, 2015, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to amend the Commission's regulations to require NERC to provide the Commission, and Commission staff, with access, on a non-public and ongoing basis, to the TADS, GADS, and protection system misoperations databases regarding U.S. facilities.[40] In response to the NOPR, the Commission received 13 sets of comments.[41] We address below the issues raised in the NOPR and comments.

II. Discussion

16. Pursuant to section 215 of the FPA, we amend the Commission's regulations to require NERC to provide the Commission, and Commission staff, with access (*i.e.,* view and download data), on an ongoing and non-public basis, to the TADS, GADS, and protection system misoperations databases. As proposed in the NOPR and clarified in the language of the new regulation, the Commission's access will be limited to data regarding U.S. facilities. In addition, as discussed further below, the Commission determines that NERC is not required to provide the Commission with access to data provided to NERC on a voluntary basis.

17. As discussed below, the Commission believes that access to these three NERC databases is necessary to carry out the Commission's obligations under section 215 of the FPA. Further, as discussed in Section II.B.1 below, we believe that if access is limited to data mandatorily provided, Commission access to the TADS, GADS, and protection system misoperations databases will not result in a reduction in the level or quality of information that users, owners and operators of the Bulk-Power System share with NERC and the Regional Entities, and will not otherwise result in a so-called chilling effect on NERC's data-gathering efforts. We also discuss the following matters below: (A) Authority to require and need for Commission access to NERC databases; (B) information voluntarily provided; (C) confidential information; (D) NERC's alternative proposal; and (E) information collection.

A. Authority To Require and Need for Commission Access to NERC Databases

NOPR

18. In the NOPR, the Commission stated that its proposed access to the TADS, GADS and protection system misoperations databases regarding U.S. facilities was "necessary to carry out the Commission's statutory authority: (1) To evaluate the need to direct new or modified Reliability Standards under section 215(d) of the FPA; and (2) to better understand NERC's periodic assessments and reports . . . regarding the reliability and adequacy of the Bulk-Power System under section 215(g) of the FPA."[42] The Commission first explained that access to the databases would inform it "more quickly, directly and comprehensively about reliability trends or reliability gaps that might require the Commission to direct the ERO to develop new or modified Reliability Standards," responsibility which falls not only to the ERO but also to the Commission under FPA section 215(d).[43] The Commission noted that each of the three databases could provide important information regarding the need for new or modified Reliability Standards and for assessing Bulk-Power System reliability, as NERC had itself recognized when justifying the need for mandatory reporting (to NERC) of TADS, GADS, and protection system misoperation data.[44]

19. Second, the Commission explained in the NOPR that access to the data would "assist the Commission with its understanding of the reliability and adequacy assessments periodically submitted by NERC pursuant to section 215(g) of the FPA."[45] The Commission further stated that having direct access to the underlying data used in aggregate form in NERC's reliability reports would "help[ ] the Commission to monitor causes of outages and detect emerging reliability issues."[46]

Comments

20. Four commenters generally support, or do not oppose, the Commission's proposal to access NERC's TADS, GADS, and protection system misoperations databases.[47] Resilient Societies supports the Commission's proposed access to the NERC data "because NERC has not performed, or not disclosed data analysis when the results might not be consistent with the interest of NERC's industry members in avoiding or minimizing regulation."[48]

21. All other commenters, including NERC,[49] the Trade Associations, and the Public Power Associations oppose the Commission's proposed regulation requiring NERC to provide the Commission access to NERC's TADS, GADS, and protection system misoperations databases.

22. The Trade Associations maintain that the Commission does not need access to these NERC databases to fulfill its obligations under FPA section 215, and that the Commission has multiple processes it can use to achieve its stated goals, including events analysis, reviewing patterns and trends in compliance and enforcement, coordination with NERC's technical committees, evaluating NERC's periodic and special reliability assessments, periodic review of individual standards, and discussions on emerging issues at technical conferences and workshops.[50] The Trade Associations argue that these processes are sufficient to allow the Commission to obtain information needed to perform its functions "without accessing the highly-sensitive, facility-specific raw data contained in the databases."[51]

The Trade Associations assert that "access to the raw data contained in the databases without NERC and industry analysis will not directly achieve the Commission's goals of identifying gaps in Reliability Standards and in understanding NERC assessments because in and of itself the raw data, without context or NERC technical analysis, does not shed light on these matters."[52] While the Trade Associations thus object to any new requirement that NERC provide access to these databases, the Trade Associations ask that, if the Commission decides to move forward with such a requirement, the Commission issue a modified proposal to better explain "how direct access to the raw data collected by NERC in the GADS, TADS, and misoperations databases will support [the Commission's] needs."[53]

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[39] *See, e.g.,* State of Reliability 2015 at 45–48.

[40] *Availability of Certain North American Electric Reliability Corporation Databases to the Commission,* Notice of Proposed Rulemaking, 80 FR 58,405 (Sept. 29, 2015), 152 FERC ¶ 61,208 (2015) (NOPR).

[41] The Appendix to this Final Rule lists the entities that filed comments in response to the NOPR.

[42] NOPR, 152 FERC ¶ 61,208 at P 17.

[43] *Id.* P 18.

[44] *See id.* P 19 (quoting NERC's statements that "TADS data is intended to provide a basis for standards" and that protection system misoperations data is used to "[i]dentify trends in Protection System performance that negatively impact reliability.")

[45] *Id.* P 20.

[46] *Id.*

[47] WIRAB supports the NOPR as a whole. Resilient Societies, David Bardin, and SGS support greater access to NERC data, including access by the Commission, but Resilient Societies and David Bardin question the need to keep the data non-public, as discussed further in Section II.B.2, *infra.*

[48] Resilient Societies Comments at 2.

[49] While NERC recognizes the Commission's objective of obtaining data needed to fulfill its oversight responsibilities, NERC asks the Commission to adopt its alternative proposal, discussed below in Section II.B.3, under which NERC would provide the Commission with access to anonymized TADS, GADS, and protection system misoperations data. The Northwest Public Power Association (NWPPA) and Western Electricity Coordinating Council (WECC) filed comments in support of NERC's comments, including NERC's proposed alternative to provide access to anonymized data.

[50] *See* Trade Associations Comments at 5, 6–11.

[51] *Id.* at 6–7.

Further, the Trade Associations and several other commenters argue that the NOPR proposal is not "consistent" with the division of responsibilities between the ERO and the Commission set forth in FPA section 215.[54] The Trade Associations assert that "[t]he assessment of reliability data in these databases is squarely within the role of the ERO, which 'conduct[s] periodic assessments of the reliability and adequacy of the bulk-power system'" and that "[t]here is no equivalent role for the Commission."[55] Similarly, the Public Power Associations contend that the NOPR proposal would impinge on the ERO's statutory authority to develop Reliability Standards, and that the FPA contemplates that the ERO should be the "principal agent for standards development and the assessment of grid reliability."[56]

23. The Public Power Associations point out that the Commission is to give due weight to the technical expertise of the ERO under FPA section 215(d)(2) and that FPA section 215(g) does not give the Commission an oversight role in performing periodic assessments of the reliability and adequacy of the Bulk-Power System, and express a general concern that the NOPR "suggests a shift in the balance of responsibilities between NERC and FERC contemplated by FPA section 215."[57] Similarly, NERC maintains that the proposed rule would "operate in tension" with section 215 of the FPA and would "chill industry collaboration with the ERO and undermine the regulatory framework for reliability."[58]

Commission Determination

24. We find that the Commission's authority to require access to NERC's TADS, GADS, and protection system databases is fully consistent with FPA section 215, and that the NOPR adequately explained why access to that data is necessary for the Commission to carry out its obligations under FPA section 215.[59]

25. First, we disagree with arguments that Commission access to these databases reflects an unwarranted shift in the balance of responsibilities between NERC and the Commission under section 215 of the FPA.[60] To the contrary, we believe that NERC and other industry commenters overstate the impact of the NOPR proposal, which recognized and acknowledged the respective roles of the Commission and NERC under section 215 of the FPA.[61] NERC, as the ERO, is responsible for developing reliability standards to address reliability issues, whether identified by NERC, its stakeholders, or the Commission; the Commission then reviews and determines whether to approve those standards. Nothing in the NOPR or this Final Rule proposes to change that structure.

26. Rather, as explained in the NOPR and this Final Rule, the Commission has determined that access to these databases will aid the Commission's implementation of its statutory authority, under section 215(d)(5) of the FPA, to determine whether to require NERC to develop new or modified reliability standards. As with prior instances in which the Commission acted pursuant to this authority,[62] NERC and its stakeholder process—not the Commission—would be responsible for the development of new or modified standards directed by the Commission. Therefore, Commission access to these databases does not supplant the role that NERC and its stakeholder process have in the standards development process.

27. We also disagree with assertions that the requirement in section 215(d)(2) of the FPA that the Commission give "due weight to the technical expertise of the [ERO] with respect to the content of a proposed standard or modification to a reliability standard"[63] suggests that the Commission must limit itself to an oversight role in the standards development process, and should broadly defer to NERC and its stakeholders on matters related to standards development.[64] As a threshold matter, the Commission did not rely on FPA section 215(d)(2), which addresses the Commission's authority to approve proposed Reliability Standards, as its statutory basis for proposing the new regulation. Instead the Commission relied on FPA section 215(d)(5), which vests the Commission with the authority, "upon its own motion or upon complaint, [to] order the [ERO] to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section."[65] Notably, while section 215(d)(2) affords "due weight" to the technical expertise of the ERO concerning the *content* of the standard, neither FPA section 215(d)(2) nor FPA section 215(d)(5) requires the Commission to afford "due weight" to the ERO's selection of which specific matters warrant a Reliability Standard. To the contrary, section 215(d)(5) explicitly authorizes the Commission to direct the ERO to develop new or modified Reliability Standards to address a specific matter if the Commission deems it "appropriate" to carry out section 215 of the FPA.[66] We therefore see no inconsistency between affording "due weight" under section 215(d)(2) and ensuring the Commission's ability to effectively implement its authority under section 215(d)(5).

28. Moreover, contrary to several commenters' assertions, nothing in FPA

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[52] *Id.* at 12–13. *See also* NERC Comments at 21–22 (stating that the proposed regulation "is not tailored to support the Commission's objective under the NOPR, because it will not enable the Commission to place relevant data in context for purposes of completing meaningful analyses of the BPS" and that "the Commission would not be able to place relevant data in context to derive useful information, which may result in incorrect or inappropriate conclusions" without engaging in a collaborative process with NERC.

[53] Trade Associations Comments at 12.

[54] *See e.g.,* Public Power Associations Comments at 2 ("the NOPR does not appear tailored to achieving that goal in a manner consistent with [FPA section 215's] statutory scheme.").

[55] Trade Associations Comments at 16 (citing 16 U.S.C. 824o(g), and quoting Commissioner LaFleur's concurring statement to the NOPR noting that "it is important that we recognize the distinction between (the Commission's) oversight role and NERC's primary responsibility to monitor reliability issues and to propose standards to address them.")

[56] Public Power Associations Comments at 7; *see also* NERC Comments at 16–20.

[57] Public Power Associations Comments at 7–8. The Public Power Associations accordingly "urge the Commission to be mindful of the inefficiencies and potential confusion that would result from a situation in which NERC and FERC perform the same analytical roles." *Id.* at 2.

[58] NERC Comments at 6.

[59] *See* NOPR, 152 FERC ¶ 61,208 at PP 17–20.

[60] *E.g.,* Public Power Associations Comments at 6–9; Trade Associations Comments at 15–17.

[61] NOPR, 152 FERC ¶ 61,208 at P 18.

[62] *See, e.g., Reliability Standards for Physical Security Measures,* 146 FERC ¶ 61,166 (2014); *Reliability Standards for Geomagnetic Disturbances,* 143 FERC ¶ 61,147 (2013).

[63] 16 U.S.C. 824o(d)(2).

[64] *E.g.,* Public Power Associations Comments at 7–8.

[65] *Id.* 824o(d)(5).

[66] We note that a proposed Reliability Standard submitted for Commission approval in response to a directive pursuant to section 215(d)(5) would be reviewed by the Commission pursuant to section 215(d)(2) of the FPA. Therefore, the ERO's technical expertise with respect to the content of the proposed standard would be afforded due weight.

section 215 states or suggests that the Commission's authority to direct the development or amendment of Reliability Standards is secondary to or otherwise "duplicative" of the ERO's authority to develop Reliability Standards on its own. NERC's authority to develop Reliability Standards under FPA section 215(d)(2) and the Commission's authority to direct NERC to develop Reliability Standards under FPA section 215(d)(5) are independent. Accordingly, the NOPR proposal does not represent a "shift" in responsibilities between the Commission and the ERO, and is instead part of the necessary input required by the Commission to carry out its statutory obligations to determine whether to direct the development or modification of a Reliability Standard under FPA section 215(d)(5).[67]

29. With respect to how the Commission would use the data from the TADS, GADS, and protection system misoperations databases, including the Trade Associations' and others commenters' contention that access to raw data would not be useful in achieving the Commission's objectives, the Commission did not indicate in the NOPR that it would rely exclusively on such data in assessing the need for NERC to develop new or modified Reliability Standards or to better understand NERC's reliability assessments. Instead, the Commission has identified data that would assist in carrying out FPA section 215, and the Commission intends to analyze data from the NERC databases in addition to data from other existing resources (*e.g.*, Commission, NERC, and industry resources), including disturbance reporting data and event analysis information, to facilitate the Commission's oversight of Bulk-Power System reliability. With respect to the Trade Associations' position that the Commission has other mechanisms that are adequate to fulfill its oversight obligations, we do not agree that the Commission's authority is limited to those mechanisms, particularly where we find, as here, that access to the additional information included in the three NERC databases is needed to meet our statutory obligations under FPA section 215.

30. We recognize, however, that we will be able to better evaluate the usefulness of the data in question as the Commission gains experience analyzing those data. Accordingly, we will continue to assess our need for access to these NERC databases after we gain adequate experience with this data following implementation of the new regulation.

B. Access to Voluntarily-Provided and Confidential Information

31. NERC and a number of other commenters raise concerns about the impact of the Commission's access to the TADS, GADS, and protection system misoperations databases on the overall quality of data shared with NERC, asserting that such access may negatively impact the industry's provision of voluntary data to NERC, and that it otherwise raises confidentiality concerns that may not be easily addressed. The Trade Associations and other commenters argue that these concerns should preclude the Commission's moving forward with any requirement to provide Commission access to the raw data in the TADS, GADS, and protection system misoperation databases, while NERC and other commenters suggest an alternative approach (discussed in Section II.B.3, below) that would provide the Commission with limited access to the databases while attempting to more fully protect confidential or sensitive information provided to NERC by users, owners, and operators of the Bulk-Power System.

Information Voluntarily Provided

NOPR

32. In the NOPR, the Commission proposed to amend its regulations to require NERC to provide the Commission with access to the TADS, GADS and protection system misoperations databases. The Commission explained that these databases are populated with data collected through mandatory NERC data requests or Reliability Standards and that the access proposed in the NOPR would be limited to U.S. facilities.[68] While the NOPR did not explicitly address whether the Commission's access to information in these databases should exclude data voluntarily provided to NERC (other than information regarding non-U.S. facilities), the Commission's description of each database focused on the data that is *required* to be provided to NERC and the justifications NERC has offered in making reporting of that data mandatory.[69]

Comments

33. NERC contends that the NOPR proposal could have a negative impact on the quality and level of data voluntarily submitted by industry to NERC (*i.e.*, data that is not currently required to be submitted to NERC under mandatory NERC data requests or Reliability Standards). NERC states that while the NOPR implies that it affects only data submitted pursuant to mandatory data reporting obligations, NERC is concerned that the proposed rule instead implicates both mandatory and voluntary data. Specifically, NERC states that TADS includes data voluntarily shared "by non-U.S. Transmission Owners and data voluntarily shared prior to 2015 on Bulk Electric System transmission elements under 200 kV." [70] NERC also states that GADS includes data "voluntarily provided from generating units with less than 20 MW of capacity, data voluntarily provided prior to 2013 from generating units with less than 50 MW of capacity, and data being voluntarily shared for certain GADS event record fields." [71] NERC further states that the protection system misoperations database includes "voluntary data currently shared by non-U.S. entities and data shared with Regional Entities prior to EPAct 2005." [72] Ultimately, NERC is concerned that the proposed rule requiring Commission access to these databases could "return both NERC and the Commission to a state where industry only shares reliability-related data in response to mandatory data requests that provide a narrow window into the web of complex information necessary to ensure reliability." [73]

34. The Public Power Associations and CEA agree with NERC's concerns and add that, if the Commission chooses to adopt the NOPR proposal, the Final Rule should clarify that the Commission will only use the accessed data for the purposes stated in the NOPR and not for compliance or enforcement purposes.[74] CEA also requests that, if the Commission moves forward with its proposed regulation, it should modify the language of the regulation to clarify

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[67] As stated in the NOPR and as previously explained in Order No. 672, access to relevant information, such as the information to be obtained through the new regulation, allows the Commission to fulfill its statutory obligations under section 215 of the FPA. NOPR, 152 FERC ¶ 61,208 at P 16 (citing Order No. 672, FERC Stats. & Regs. ¶ 31,204, at P 114).

[68] *See* NOPR, 152 FERC ¶ 61,208 at PP 5–14, 15.

[69] *Id.* PP 5–14, 19.

[70] NERC Comments at 8–9.

[71] *Id.* at 9.

[72] *Id.*

[73] NERC Comments at 33.

[74] Public Power Associations Comments at 11; CEA Comments at 10–11 (stating that "the establishment and administration of [the TADS, GADS, and protection system misoperations] databases have not been effectuated with FERC or other applicable governmental authorities in mind.")

that the Commission's access to data is limited to data regarding U.S. facilities.

35. The Trade Associations also agree with NERC's concerns and, more broadly, argue that the NOPR proposal could "chill" industry information-sharing with NERC generally. The Trade Associations state that this chilling effect will be "more profound" if the Commission should, in the future, request access to other NERC databases that rely on voluntary information-sharing (such as NERC's Electricity Information Sharing and Analysis Center), or if the databases "are used for non-reliability purposes, such as economic policy and enforcement purposes."[75]

Commission Determination

36. In the NOPR, the Commission expressly proposed to exclude from the database access requirement information concerning non-U.S. facilities, and we will maintain that exclusion in the regulation as adopted. The Commission agrees with CEA that this exclusion can be clarified through a modification to the language of the proposed regulation, and we, accordingly, add a new sentence to the end of the regulation to clarify that Commission access will be limited to data regarding U.S. facilities.

37. In addition, while the NOPR did not explicitly state that the Commission's access to data would be limited to data provided to NERC as part of a mandatory data request or other NERC requirement, the Commission believes that it can achieve its objectives as stated in the NOPR with access to mandatorily-provided data only. Adopting this approach should mitigate NERC's and other commenters' concerns regarding the impact of the proposed regulation on the level and quality of voluntary information-sharing with NERC and the Regional Entities. Because the Commission will only be accessing data that entities are *required* to provide to NERC, there should be no impact on an entity's willingness to share additional, voluntary information.

38. While NERC maintains that entities may be hesitant to provide voluntary information to NERC or the Regional Entities because the Commission could seek to access that information in the future, we do not find these arguments to be persuasive, particularly in light of the Commission's decision to exclude voluntarily-provided information from the scope of the Final Rule. Moreover, we find that these concerns do not override our need for the data contained in NERC's TADS, GADS, and protection system misoperation databases.

39. With respect to requests to limit our use of the data accessed, the Commission's intent in seeking access to the data is as stated in the NOPR (*i.e.,* to assess the potential need for new or modified Reliability Standards and to better understand NERC's periodic reliability and adequacy assessments). We believe the data will be most useful for evaluating overall reliability trends and identifying specific reliability concerns. For example, the data could provide insight into chronic or recurring system deficiencies, provide a basis for comparison of the reliability benefits of different kinds of equipment or system configurations, or be used to assess the effectiveness of reliability efforts across NERC, Regional Entities and industry. However, the Commission is not precluded from using the accessed data for other statutory purposes.

1. Confidentiality

NOPR

40. In the NOPR, the Commission recognized that its proposal to access data in the TADS, GADS, and protection system misoperations databases "might raise confidentiality issues," and stated that if the collected data include confidential information it would "take appropriate steps, as provided for in our governing statutes and regulations, in handling such information."[76]

Comments

41. NERC and industry commenters identify maintaining the confidentiality of TADS, GADS, and protection system misoperations data accessed by the Commission as a major concern with the NOPR proposal. NERC contends that treating such data as confidential is appropriate because "the detailed data implicated by the NOPR could be misused to target vulnerabilities in the [Bulk-Power System]."[77] NERC maintains that while "data implicated by the NOPR would normally be eligible for exemption from [the Freedom of Information Act (FOIA)] disclosure as commercial information or sensitive information in light of security interests, and protected as Confidential Information or [Critical Energy Infrastructure Information (CEII)] under Commission regulation, eligibility for exemption from disclosure under FOIA only partially mitigates risk to confidentiality," in part because the Commission has discretion whether to invoke such an exemption.[78] NERC also asserts that the Commission has disclosed information in the past that was eligible for exemption from FOIA, including information treated as CEII.[79]

42. Similarly, the Trade Associations maintain that the regulation, if adopted, "would create a heightened risk of improper disclosure of the GADS, TADS, and misoperations information, risking harm to the Commission's jurisdictional markets and the security of the nation's bulk-power system."[80] The Trade Associations describe the potential harm that could result from disclosure of the TADS, GADS, and misoperations data, and maintain that the heightened risk of disclosure stems not only from the potential for release through a FOIA request, but also from the unintentional release of data through security breaches.[81] As examples, the Trade Associations state that data accessed by the Commission could be accidentally disseminated through "misplaced hard drives or laptops, inadvertently directed emails, or incorrectly granted information access," and assert that "the risk of information loss also increases with the number of individuals and organizations accessing and holding the data."[82]

43. Resilient Societies, by contrast, objects to the NOPR's proposal to preserve the confidentiality of the accessed data, raising a concern that the Commission might be restricted "from analyzing the NERC data and then using conclusions developed thereby to support rulemaking or other public policy actions."[83] Resilient Societies accordingly requests that the Commission adopt the NOPR with "appropriate additional provisions to allow public disclosure of modeling parameters and other conclusions developed from the TADS and GADS data."[84]

Commission Determination

44. It is clear from the record that maintaining the confidentiality of data included in the TADS, GADS, and protection system operations databases is a significant concern to NERC and the entities that provide information to these databases. The Commission recognizes that information contained in the TADS, GADS, and protection system misoperation databases may be sensitive, and that such information may qualify as CEII under the

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[75] Trade Associations Comments at 26.

[76] NOPR, 152 FERC ¶ 61,208 at P 22.

[77] NERC Comments at 10.

[78] *Id.* at 27–28.

[79] *Id.* at 28.

[80] Trade Associations Comments at 18–19.

[81] *Id.* at 20–21.

[82] *Id.* at 21.

[83] Resilient Societies Comments at 2.

[84] *Id.* at 3.

Commission's regulations. As discussed below, and to address these concerns, we will defer the effectiveness of this Final Rule until the Commission issues a final rule adopting regulations to implement its recently-expanded authority to protect against the disclosure of "critical electric infrastructure information."

45. As stated in the NOPR, the Commission commits that we will take appropriate steps in handling such information, in accordance with our governing statutes and regulations. Subsequent to the issuance of the NOPR, the Commission's authority to safeguard sensitive information has been enhanced through the recent enactment of FPA section 215A.[85] FPA section 215A creates a new statutory FOIA exemption for information designated "critical electric infrastructure information" by the Commission or the Department of Energy.[86] Concurrently with the issuance of this Final Rule, the Commission is issuing a Notice of Proposed Rulemaking proposing to amend the Commission's regulations to implement the provisions of the FAST Act pertaining to the designation, protection and sharing of critical electric infrastructure information, and proposing to amend its existing regulations pertaining to CEII.[87]

46. We determine that the Commission's expanded authority to safeguard sensitive information adequately addresses the concerns raised in the comments regarding confidentiality. By deferring Commission access to the databases until issuance of a final rule implementing the new "critical electric infrastructure information" protection, we will ensure that the Commission has the full authority of that law at its disposal to protect against the improper disclosure of "critical electric infrastructure information" contained in the databases.[88] We also believe that this proposal strikes an appropriate balance between the Commission's need to access potentially sensitive information, and the need to protect that information against improper disclosure.[89]

47. Moreover, whatever potential risks might remain regarding the dissemination of GADS, TADS, and protection system misoperations database data do not, in our view, outweigh the need for Commission access to carry out our statutory responsibilities under FPA section 215. Since passage of the EPAct in 2005, the Commission has generally had to rely on aggregated and summarized data in its assessments of the state of reliability and of the efficacy of current Reliability Standards. Based on that experience, the Commission has determined that such aggregated and summarized data do not allow the Commission to perform the reliability analyses necessary to accomplish the purposes of this rule.

2. NERC Alternative Proposal To Provide Anonymized Data

NOPR

48. Under the Commission's proposed regulation, NERC would be required to provide the Commission access to the mandatory TADS, GADS, and protection system misoperations databases regarding U.S. facilities, on a non-public and on-going basis as soon as the proposed regulation becomes effective.

Comments

49. NERC proposes a two-phase alternative approach to avoid a number of the concerns NERC and the industry have with the NOPR proposal. In the first phase, NERC would provide anonymized data to the Commission "within 90 days of the Commission's order on the NOPR."[90] In the second phase, "NERC staff would work collaboratively with Commission staff through an Information Sharing Working Group to develop NERC-managed tools to provide Commission staff access to anonymized versions of TADS, GADS, and protection system misoperations databases."[91] NERC proposes that the Commission access GADS data through NERC's existing "pc-GAR" product, which "provides users with access to anonymized reliability information from the over 5,000 generating units reporting under GADS, and allows users to select from hundreds of data combinations," and provides users the ability to generate reports based on region, generator type, and fuel type.[92] NERC proposes to give the Commission access to pc-GAR and to develop "similar tools" for TADS and protection system misoperations data.[93]

50. Several industry commenters support NERC's alternative approach, including CEA, KCP&L, NWPPA, and WECC.[94] While the Public Power Associations also support NERC's alternative proposal, they recommend that the Commission adopt NERC's alternative approach as an intermediate step, and then revisit the effectiveness of NERC's approach after a reasonable period for testing the efficacy of using the anonymized data (*e.g.*, after one or two years).

51. Resilient Societies opposes NERC's proposed alternative approach because it contends that "[o]nly by knowing the location of TADS and GADS events, and by cross-referencing to network configuration, will analysts at FERC be able to fully understand reasons for equipment failure, system misoperations, or grid outages."[95]

Commission Determination

52. We are not persuaded that the anonymized data, in the form offered by NERC, would provide the Commission with sufficiently useable information to achieve its objectives as stated in the NOPR. Were NERC to fully anonymize the databases, it would have to mask not only fields that directly identify entities (*i.e.*, entity name and/or NERC Compliance Registry (NCR) number), but would also have to mask every field that could contain information which could allow identification of a particular entity (*e.g.*, where the location or characteristics of a particular facility could lead to identification of the reporting entity). While we agree that the "attributable" information in these data fields is sensitive and could be entitled to non-public treatment by the Commission (as discussed above in Section II.B.2), we believe that masking all fields which may contain such data before providing it to the Commission would severely constrain the value of

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[85] *See* Fixing America's Surface Transportation (FAST Act), Public Law 114–94, 61003, 129 Stat. 1312 (2015).

[86] FPA section 215A(a)(3) defines critical electric infrastructure information as "information related to critical electric infrastructure, or proposed critical electrical infrastructure, generated by or provided to the Commission or other Federal agency, other than classified national security information, that is designated as critical electric infrastructure by the Commission or the Secretary pursuant to subsection (d). Such term includes information that qualifies as critical energy infrastructure information under the Commission's regulations." *Id.*

[87] *Regulations Implementing FAST Act Section 61003—Critical Electric Infrastructure Security and Amending Critical Energy Infrastructure Information,* 155 FERC ¶ 61,278 (2016).

[88] In deferring the effectiveness of this Final Rule, the Commission is not making a determination that any particular information in the databases is, in fact, "critical electric infrastructure information."

[89] During the intervening period between issuance of this Final Rule and the Final Rule becoming effective, Commission staff will work with NERC to address any technical, procedural, or confidentiality issues to ensure that Commission staff can promptly access the databases upon the Final Rule becoming effective.

[90] NERC Comments at 4.

[91] *Id.* at 4–5.

[92] *Id.* at 11. The pc-GAR is a family of products that provides the automated personal computer (pc-) version of NERC's Generating Availability Report (GAR). *See http://www.nerc.com/pa/RAPA/gads/Pages/pc-GAR.aspx.*

[93] *Id.*

[94] *See, e.g.*, CEA Comments at 15, WECC Comments at 2.

[95] Resilient Societies Comments at 2.

the Commission's access to the databases. This masking would likely preclude Commission access to information such as the affected facility names and locations, affected equipment names, which generation or transmission facilities were tripped as a result of a misoperation, the event description, and the corrective actions taken following a misoperation.

53. The masking of such information would limit the Commission's ability, *inter alia,* to identify reliability problems in specific geographic areas, or for specific failure modes or types of equipment. The accessible information would only allow the Commission to achieve a broad and generalized understanding of Bulk-Power System risks, and not the more detailed and meaningful analysis that the Commission seeks.

54. In addition, masking of information used to locate or identify outages of specific transmission or generation facilities would limit the Commission's ability to identify affected regional or sub-regional vulnerabilities, and accordingly limit its ability to make recommendations regarding the efficacy of existing regional Reliability Standards or the need for new or modified regional Reliability Standards. This aggregation or masking of information would also limit the Commission's ability to understand the causes of cascading failures where multiple outages occur in sequence and in close proximity or match the databases with other sources of information such as disturbance reporting data currently provided by NERC. For all of these reasons, we find that anonymized data taken from the databases would not allow the Commission to achieve the objectives set out in the NOPR. Accordingly, we find NERC's proposal not to be a viable alternative to the NOPR proposal.

III. Information Collection Statement

55. The following collection of information contained in this Final Rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995 (PRA).[96] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[97] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this rule will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number.

NOPR

56. In the NOPR, the Commission explained that the proposed regulation would make TADS, GADS, and protection system misoperations data regarding U.S. facilities, currently collected by NERC, available to the Commission and its staff on a non-public and ongoing basis. The Commission stated that the new regulation would not require NERC to collect new information, compile information into any kind of report, or reformulate its raw data. The Commission also stated its belief that it could be relatively straightforward for NERC to provide the Commission, and Commission staff, with access to TADS, GADS, and protection systems misoperations data, and noted that various entities currently have access to these data via an existing web interface. Accordingly, the Commission estimated that the one-time burden associated with compliance with the proposed rule would be *de minimis,* and would be limited to NERC reviewing the Commission's proposed regulation and providing the Commission and its staff with access to the existing TADS, GADS, and protection system misoperations databases.

57. The Commission solicited comments on the need for the required information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asked that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

Comments

58. The Trade Associations argue that the Commission's burden estimate as stated in the NOPR is deficient because it overlooks the burden on users, owner, and operators of the Bulk-Power System of providing the underlying data to NERC.[98] The Trade Associations maintain that by ignoring the burdens imposed as a result of NERC's underlying data collection, the Commission is effectively avoiding scrutiny by OMB. In addition, the Trade Associations assert that the information-collecting activities associated with the new regulation are not covered under OMB's FERC–725 collection authorization because they do not relate to operational information collected from Regional Entities. Accordingly, the Trade Associations argue that a new OMB information collection authorization is required.

Commission Determination

59. For the reasons discussed below, the Commission adopts the Information Collection Statement included in the NOPR (*i.e.,* the Commission estimates that there will be a *de minimis* burden associated with the information collection requirements under the new regulation). Essentially, the only burden the new regulation imposes will be on NERC, and the only action required is for NERC to provide access to its existing TADS, GADS, and protection misoperation databases. While NERC may have to develop limited screens to ensure that information related to non-U.S. facilities or information voluntarily provided has been excluded, we understand that NERC currently has the capability to provide access to certain data within its databases while screening other data or data fields (similar to the access NERC provides using its pc-GAR product).

60. With respect to the Trade Associations' assertion that the NOPR's Information Collection analysis overlooks the burden imposed on registered entities by NERC's underlying reporting requirements, we do not agree that the Paperwork Reduction Act requires an examination of underlying information collection burdens that exist independent of the proposed regulation. In this case, the burden on the entities required to report data on U.S. facilities to NERC is already in place and remains mandatory and unchanged regardless of whether the Commission adopts the regulation or not.

61. Furthermore, contrary to the Trade Associations' assertions, OMB has reviewed the information collection burden associated with the underlying obligation on users, owners, and operators of the Bulk-Power System to report misoperations data to NERC. In approving earlier versions of the Reliability Standard that first imposed such a reporting obligation (*i.e.,* PRC–004), the Commission took into account the estimated burden imposed on registered entities to report the misoperations data to NERC.[99] The

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[96] 44 U.S.C. 3507(d).

[97] 5 CFR 1320.11.

[98] Trade Associations Comments at 17.

[99] *See* NERC Reliability Standard PRC–004–2a (unchanged in Order No. 785 in RM12–16) and for PRC–004–2.1a (which replaced Reliability Standard

underlying misoperations reporting obligation was subsequently removed from Reliability Standard PRC–004–2.1 and moved into a separate data request pursuant to Section 1600 of NERC's Rules of Procedure. However, the underlying reporting burden to NERC was still reflected in the OMB burden estimate,[100] and is currently included in the FERC–725 information collection (OMB Control No. 1902–0255, recently approved by OMB on February 26, 2016).

62. Finally, the Trade Associations are incorrect with respect to the scope of existing FERC–725 (Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards), which covers the ERO's obligation to provide data to the Commission. FERC–725 includes information required by the Commission to implement the statutory provisions of section 215 of the FPA, and includes the burden, reporting and recordkeeping requirements associated with: (a) Self Assessment and ERO Application, (b) Reliability Assessments, (c) Reliability Standards Development, (d) Reliability Compliance, (e) Stakeholder Survey, and (f) Other Reporting.

63. As a result, this Final Rule will be submitted to OMB for review and approval as a "no material or nonsubstantive change to a currently approved collection."

Title: FERC–725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards.

Action: Revision of currently approved collection of information.

OMB Control No.: 1902–0225.

Respondents for this Rulemaking: Electric Reliability Organization.

Frequency of Information: Initial implementation by the ERO to provide Commission access to TADS, GADS, and misoperations databases.

Internal review: The Commission has reviewed the proposed regulation and has determined that the proposed regulation is necessary to ensure the reliability and integrity of the nation's Bulk-Power System.

64. Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, Office of the Executive Director, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

65. Comments concerning the information collections approved in this Final Rule and the associated burden estimates, should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–0710, fax: (202) 395–7285]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference the docket number of this Final Rule (Docket No. RM15–25–000) and OMB Control No. 1902–0225 in your submission.

IV. Environmental Analysis

66. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[101] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[102] The actions here fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

67. The Regulatory Flexibility Act of 1980 (RFA)[103] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) revised its size standard (effective January 22, 2014) for electric utilities from a standard based on megawatt hours to a standard based on the number of employees, including affiliates.[104]

68. The Commission is amending its regulations to require only the ERO (*i.e.,* NERC) to provide the Commission, and Commission staff, with access, on a non-public and ongoing basis, to the existing TADS, GADS, and protections system misoperations databases. As discussed above, we estimate that the costs to the ERO associated with this Final Rule will be *de minimis.* Accordingly, the Commission certifies that the new regulation will not have a significant economic impact on a substantial number of small entities, and no regulatory flexibility analysis is required.

VI. Document Availability

69. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

70. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

71. User assistance is available for eLibrary and the Commission Web site during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

72. These regulations are effective July 12, 2016. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission will submit the Final Rule to both houses of Congress and to the General Accountability Office.

By the Commission.

Issued: June 16, 2016.

Kimberly D. Bose,

Secretary.

In consideration of the foregoing, the Commission amends Chapter I, Title 18,

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PRC–004–2a), covered under FERC–725A (OMB Control No. 1902–0244); Reliability Standard PRC–004–2.1(i)a in Docket No. RM12–16, covered by FERC–725M (OMB Control No. 1902–0263); Reliability Standard PRC–004–3 (in Docket No. RD14–14), covered by FERC–725G1 (OMB Control No. 1902–0284); and Reliability Standard PRC–004–4 (in Docket No. RD15–3) (submitted to OMB for information only).

[100] *See North American Electric Reliability Corp.,* 151 FERC ¶ 61,129, at P 22 (2015).

[101] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[102] 18 CFR 380.4(a)(2)(ii).

[103] 5 U.S.C. 601–612.

[104] SBA Final Rule on "Small Business Size Standards: Utilities," 78 FR 77,343 (Dec. 23, 2013).

part 39 of the *Code of Federal Regulations,* as follows:

PART 39—RULES CONCERNING CERTIFICATION OF THE ELECTRIC RELIABILITY ORGANIZATION; AND PROCEDURES FOR THE ESTABLISHMENT, APPROVAL, AND ENFORCEMENT OF ELECTRIC RELIABILITY STANDARDS

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 16 U.S.C. 824o.

■ 2. Amend § 39.11 to add paragraph (c) as follows:

§ 39.11 Reliability reports.

* * * * *

(c) The Electric Reliability Organization shall make available to the Commission, on a non-public and ongoing basis, access to the Transmission Availability Data System, Generator Availability Data System, and protection system misoperations databases, or any successor databases thereto. Such access will be limited to:

(1) Data regarding U.S. facilities; and

(2) Data that is required to be provided to the ERO.

The following appendix will not appear in the Code of Federal Regulations.

Appendix

Commenters

American Public Power Association, Large Public Power Council, and the Transmission Access Policy Study Group (collectively, Public Power Associations)
Canadian Electricity Association (CEA)
David Jonas Bardin (David Bardin)
Edison Electric Institute, Electric Power Supply Association, Electricity Consumers Resource Council, and the National Rural Electric Cooperative Association (collectively, Trade Associations)
Foundation for Resilient Societies (Resilient Societies)
Kansas City Power & Light Company (KCP&L)
North American Electric Reliability Corporation (NERC)
Northwest Public Power Association (NWPPA)
Rio Tinto Alcan Inc. (RTA)
SGS Statistical Services (SGS)
Tri-State Generation and Transmission Association, Inc. (Tri-State)
Western Electric Coordinating Council (WECC)
Western Interconnection Regional Advisory Board (WIRAB)

[FR Doc. 2016–14760 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9775]

RIN 1545–BN26

Requirement To Notify the IRS of Intent To Operate as a Section 501(c)(4) Organization; Final and Temporary Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the requirement, added by the Protecting Americans from Tax Hikes Act of 2015, that organizations must notify the IRS of their intent to operate under section 501(c)(4) of the Internal Revenue Code (Code). The regulations affect organizations described in section 501(c)(4) (section 501(c)(4) organizations) that are organized after December 18, 2015, and certain section 501(c)(4) organizations existing on that date. The text of the temporary regulations serves as the text of the proposed regulations set forth in the related notice of proposed rulemaking (REG–101689–16) published in the Proposed Rules section in this issue of the **Federal Register**.

DATES:

Effective Date: These regulations are effective on July 8, 2016.

Applicability Date: For date of applicability, see § 1.506–1T(f).

FOR FURTHER INFORMATION CONTACT: Chelsea Rubin at (202) 317–5800 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final and temporary regulations will be reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–2268.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This Treasury decision contains temporary regulations under section 506 of the Code. Section 405 of the Protecting Americans from Tax Hikes Act of 2015 (Pub. L. 114–113, div. Q) (the PATH Act), enacted on December 18, 2015, added section 506 to the Code and amended sections 6033 and 6652. Because the statutory provisions were effective upon enactment and certain section 501(c)(4) organizations must notify the IRS within 60 days of formation, these temporary regulations are necessary to provide prompt guidance to enable section 501(c)(4) organizations to satisfy the new statutory notification requirement and provide appropriate transition relief.

1. Section 501(c)(4) Organizations

Section 501(a) of the Code generally provides that an organization described in section 501(c) is exempt from federal income tax. Section 501(c)(4) describes certain civic leagues or organizations operated exclusively for the promotion of social welfare and certain local associations of employees. An organization is described in section 501(c)(4) and exempt from tax under section 501(a) if it satisfies the requirements applicable to such status. Subject to certain exceptions, section 6033, in part, requires organizations exempt from taxation under section 501(a) to file annual information returns or notices, as applicable.

Although an organization may apply to the IRS for recognition that the organization qualifies for tax-exempt status under section 501(c)(4), there is no requirement to do so (except as provided in section 6033(j)(2), which requires organizations that lose tax-exempt status for failure to file required annual information returns or notices and want to regain tax-exempt status to apply to obtain reinstatement of such status). Accordingly, a section 501(c)(4) organization that files annual information returns or notices, as required under section 6033, need not seek an IRS determination of its qualification for tax-exempt status in order to be described in and operate as a section 501(c)(4) organization.

2. The PATH Act

Section 405(a) of the PATH Act added section 506 to the Code, requiring an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization. In addition, section 405(b) and (c) of the PATH Act amended sections 6033(f) and 6652(c), relating to information that section 501(c)(4) organizations may be required to include on their annual information returns and penalties for certain failures by tax-exempt organizations to comply with filing or disclosure requirements, respectively.

Section 506(a) requires a section 501(c)(4) organization, no later than 60 days after the organization is established, to notify the Secretary of the Department of the Treasury (Secretary) that it is operating as a section 501(c)(4) organization (the notification). Section 506(b) provides that the notification must include: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. Section 506(c) requires the Secretary to send the organization an acknowledgment of the receipt of its notification within 60 days. Section 506(d) permits the Secretary to extend the 60-day notification period for reasonable cause. Section 506(e) provides that the Secretary shall impose a reasonable user fee for submission of the notification. Section 506(f) provides that, upon request by an organization, the Secretary may issue a determination with respect to the organization's treatment as a section 501(c)(4) organization and that the organization's request will be treated as an application for exemption from taxation under section 501(a) subject to public inspection under section 6104.[1]

In addition, the PATH Act amended section 6033(f) to require a section 501(c)(4) organization submitting the notification to include with its first annual information return after submitting the notification any additional information prescribed by regulation that supports the organization's treatment as a section 501(c)(4) organization.

The PATH Act also amended section 6652(c) to impose penalties for failure to submit the notification by the date and in the manner prescribed in regulations. In particular, section 6652(c)(4)(A) imposes a penalty on an organization that fails to submit the notification equal to $20 per day for each day such failure continues, up to a maximum of $5,000. Additionally, section 6652(c)(4)(B) imposes a similar penalty on persons who fail to timely submit the notification in response to a written request by the Secretary.

Section 405(f) of the PATH Act provides that, in general, the requirement to submit the notification and the related amendments to sections 6033 and 6652 apply to section 501(c)(4) organizations that are established after December 18, 2015, the date of enactment of the PATH Act. Section 405(f)(2) of the PATH Act provides that these provisions also apply to any other section 501(c)(4) organizations that had not, on or before the date of enactment of the PATH Act: (1) Applied for a written determination of recognition as a section 501(c)(4) organization (using Form 1024, "Application for Recognition of Exemption Under Section 501(a)"); or (2) filed at least one annual information return or notice required under section 6033(a)(1) or (i) (that is, a Form 990, "Return of Organization Exempt From Income Tax," or, if eligible, Form 990–EZ, "Short Form Return of Organization Exempt From Income Tax," or Form 990–N (e-Postcard)). Organizations described in section 405(f)(2) of the PATH Act must submit the notification within 180 days after the date of enactment of the PATH Act.

3. Notice 2016–09

The Treasury Department and the IRS issued Notice 2016–09 (2016–6 IRB 306 (February 8, 2016)) to provide interim guidance regarding section 405 of the PATH Act. Specifically, Notice 2016–09 extended the due date for submitting the notification until at least 60 days from the date that implementing regulations are issued in order to provide adequate transition time for organizations to comply with the new requirement to submit the notification. Notice 2016–09 further stated that no penalties under section 6652(c)(4) would apply to a section 501(c)(4) organization that submits the notification by the due date provided in the regulations.

With respect to the separate procedure by which an organization may request a determination from the IRS that it qualifies for tax-exempt status under section 501(c)(4), Notice 2016–09 stated that organizations seeking IRS recognition of section 501(c)(4) status should continue using Form 1024 until further guidance is issued. Notice 2016–09 also clarified that the filing of Form 1024 does not relieve an organization of the requirement to submit the notification. The Treasury Department and the IRS received a public comment in response to Notice 2016–09, which was considered in drafting these temporary regulations.

Explanation of Provisions

1. Overview of Temporary Regulations

The temporary regulations prescribe the manner in which an organization must notify the IRS, consistent with section 506, that it is operating as a section 501(c)(4) organization. In addition, the temporary regulations clarify that the submission of the notification does not constitute a request by an organization for a determination from the IRS that it qualifies for tax-exempt status.

2. The Notification

The IRS has developed a new electronic form, Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," for use by organizations submitting the notification. In accordance with section 506(a), the temporary regulations generally require a section 501(c)(4) organization to submit the notification to the IRS on Form 8976 (or its successor) no later than 60 days after the date the organization is organized. The Form 8976 must be submitted in accordance with the form and its instructions.

Consistent with section 506(b), the temporary regulations specify that the notification must include: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state or other jurisdiction under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. In addition, the temporary regulations provide that the notification must include such additional information as may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. To ensure that the statutorily required items of information in the notification are correlated accurately within existing IRS systems, Form 8976 requires organizations to provide their annual accounting period.

The temporary regulations also provide that the notification must be accompanied by payment of the reasonable user fee authorized by section 506(e), which will be set forth by published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Consistent with section 506(d), the temporary regulations state that the 60-day period for submitting the notification may be extended for reasonable cause.

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[1] The separate procedure by which an organization may request a determination of tax-exempt status is prescribed in Rev. Proc. 2016–5, 2016–1 IRB 188, or its successor.

Further, the temporary regulations provide that, within 60 days after receipt of the notification, the IRS will send the organization an acknowledgment of such receipt. The temporary regulations clarify that this acknowledgment is not a determination with respect to tax-exempt status. Thus, it is not a determination on which an organization may rely or a determination or a failure to make a determination with respect to which the organization may seek declaratory judgment under section 7428. For further information regarding the interaction of the section 506 notification requirement with the separate procedure by which an organization may request an IRS determination that it qualifies for tax-exempt status under section 501(c)(4), see section 5 of this Explanation of Provisions.

Finally, the temporary regulations provide that additional guidance on the procedures for submitting the notification may be provided in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. On July 8, 2016, the IRS released Rev. Proc. 2016–41, 2016–30 IRB xxxx, which provides additional information on the procedure for submitting the Form 8976.

A public comment submitted in response to Notice 2016–09 suggested that section 506(a) should not apply to foreign organizations that do not conduct significant activities (other than investment activities) in the United States, even if the organizations may be required to submit a Form 990 to the IRS. As the commenter notes, foreign section 501(c)(4) organizations generally are required to file an annual information return or notice with the IRS under section 6033. *See* Rev. Proc. 2011–15, § 3 (2011–3 IRB 322). Section 506(a) does not include an exception from the requirement to submit the notification for foreign section 501(c)(4) organizations. The Treasury Department and the IRS have determined that the regulations should not create such an exception because the requirement to submit the notification is intended to replace the former practice under which section 501(c)(4) organizations (both domestic and foreign) might not notify the IRS that they claim section 501(c)(4) status until they file a Form 990 return or notice. Accordingly, the temporary regulations clarify that a section 501(c)(4) organization must submit the notification whether it is organized in the United States or outside the United States. However, a foreign organization may be eligible for relief from penalties under section 6652 if it submits the notification promptly after first commencing activities or receiving income that would cause it to have a filing requirement under section 6033. Rev. Proc. 2016–41 includes an example to illustrate the availability of this relief.

3. Special Rules for Organizations Organized on or Before July 8, 2016

Under section 405(f)(2) of the PATH Act, the requirement to submit the notification does not apply to certain organizations that notified the IRS of their existence on or before December 18, 2015. The Treasury Department and the IRS recognize that, since the enactment of the PATH Act but before the availability of the new electronic Form 8976 for submitting the notification, additional section 501(c)(4) organizations may have notified the IRS of their existence by applying for a written determination of tax-exempt status or filing a required annual information return or notice. Accordingly, to reduce the burden on these organizations and the IRS, the temporary regulations provide relief from the requirement to submit the notification for any section 501(c)(4) organization that, on or before July 8, 2016, either: (1) Applied for a written determination of recognition as a section 501(c)(4) organization (using Form 1024); or (2) filed at least one annual return or notice required under section 6033(a)(1) or (i) (that is, a Form 990 or, if eligible, Form 990–EZ or Form 990–N).

In order to allow adequate transition time for organizations that do not qualify for this transition relief to submit the notification in the manner prescribed by these regulations, the temporary regulations provide that an organization that was organized on or before July 8, 2016, will have until September 6, 2016, which is 60 days from the date that the regulations are filed with the **Federal Register**, to submit the notification.

4. Failure To Submit the Notification

For information on the applicable penalties for failure to submit the notification, the temporary regulations refer to section 6652(c)(4), which imposes penalties on the organization and on persons who fail to timely submit the notification in response to a written request by the Secretary, as well as section 6652(c)(5), which provides a reasonable cause exception, and section 6652(c)(6), which provides other special rules that generally apply for purposes of section 6652(c) penalties.

Under section 6652(c)(5), no penalty will be imposed with respect to a failure to submit the notification if it is shown that such failure is due to reasonable cause. Rev. Proc. 2016–41 addresses reasonable cause for abating a section 6652(c)(4) penalty.

Under section 6652(c)(6), the section 6652(c)(4)(B) penalty imposed on "persons" who fail to timely submit the notification in response to a written request by the Secretary applies to any officer, director, trustee, employee, or other individual who is under a duty to submit the notification. In addition, under section 6652(c)(6), if more than one person is liable for the section 6652(c)(4)(B) penalty, all such persons will be jointly and severally liable with respect to the failure to submit the notification.

5. Separate Procedure by Which an Organization May Request an IRS Determination That It Qualifies for Section 501(c)(4) Exempt Status

Section 506(f) provides that an organization subject to the section 506 notification requirement may request a determination to be treated as an organization described in section 501(c)(4). This indicates that the procedure by which an organization may request a determination that it is described in section 501(c)(4) is separate from the procedure for submitting the notification. Accordingly, the temporary regulations provide that submission of the notification does not constitute a request for an IRS determination that the organization qualifies for tax-exempt status under section 501(c)(4). Rather, an organization that seeks IRS recognition of tax-exempt status under section 501(c)(4) must separately request a determination in the manner prescribed in Revenue Procedure 2016–5, or its successor.

If an organization receives a determination from the IRS recognizing tax-exempt status, the organization's application, supporting papers, and final determination letter are open to public inspection under section 6104(a)(1) and (d). The notification, by contrast, is not open for public inspection because it is not an application within the meaning of section 6104.

6. No Additional Information Required on Form 990 or 990–EZ at This Time

Section 6033(f)(2), as amended by the PATH Act, provides that the IRS may require an organization that submits the notification to include additional information in support of the organization's treatment as an organization described in section 501(c)(4) on the first Form 990 or 990–EZ, as applicable, filed by the organization after submitting the notification. The temporary regulations do not prescribe any additional information to be reported on Form 990 or 990–EZ at this time. The IRS will monitor the notification process to determine whether additional information is needed.

Statement of Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site at *http://www.irs.gov*.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act, please refer to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Chelsea R. Rubin, Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par 2.** Section 1.506–1T is added to read as follows:

§ 1.506–1T Organizations required to notify Commissioner of intent to operate under section 501(c)(4) (temporary).

(a) *Notification requirement*—(1) *In general.* Except as provided in paragraph (b) of this section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," or its successor (the notification). The notification must be submitted in accordance with the form and its instructions. The notification must include the information specified in paragraph (a)(2) of this section and be accompanied by payment of the user fee described in paragraph (a)(3) of this section. Additional guidance on the procedure for submitting the notification may be provided in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(2) *Contents of the notification.* The notification must include the following information:

(i) The name, address, and taxpayer identification number of the organization.

(ii) The date on which, and the state or other jurisdiction under the laws of which, the organization was organized (that is, formed as a legal entity). For an organization formed outside the United States, the jurisdiction is the foreign country under the laws of which it is organized.

(iii) A statement of the purpose of the organization.

(iv) Such additional information as may be specified in published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(3) *User fee.* The notification must be accompanied by payment of the user fee set forth by published guidance in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(4) *Extension for reasonable cause.* The Commissioner may, for reasonable cause, extend the 60-day period for submitting the notification.

(b) *Special rules for organizations that were organized on or before July 8, 2016*—(1) *Notification requirement does not apply to organizations that filed with the IRS on or before December 18, 2015.* The requirement to submit the notification does not apply to any organization described in section 501(c)(4) that, on or before December 18, 2015, either—

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with § 1.501(a)–1 and all applicable guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(2) *Transition relief available for organizations that filed with the IRS on or before July 8, 2016.* An organization described in section 501(c)(4) is not required to submit the notification if, on or before July 8, 2016, the organization either—

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with § 1.501(a)–1 and all applicable guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(3) *Extended due date.* An organization that was organized on or before July 8, 2016, and is not described in paragraph (b)(1) or (2) of this section, will satisfy the requirement to submit the notification if the notification is submitted on or before September 6, 2016.

(c) *Failure to submit the notification.* For information on the penalties for failure to submit the notification, the applicable reasonable cause exception, and applicable special rules, see section 6652(c)(4) through (6).

(d) *Acknowledgment of receipt.* Within 60 days after receipt of the notification, the Commissioner will send the organization an acknowledgment of such receipt. This acknowledgment is not a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). See paragraph (e) of this section.

(e) *Separate procedure by which an organization may request an IRS determination that it qualifies for section 501(c)(4) tax-exempt status.* Submission of the notification does not constitute a request by an organization for a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). An organization seeking IRS recognition of its tax-exempt status must separately request such a determination in accordance with § 1.501(a)–1 and all applicable guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), forms, and instructions.

(f) *Effective/applicability date.* This section applies on and after July 8, 2016.

(g) *Expiration date.* The applicability of this section expires on or before July 8, 2019.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 3.** The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 4.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.506–1T	1545–2268
* * *	* *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: June 24, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2016–16338 Filed 7–8–16; 11:15 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 602

[TD 9768]

RIN 1545–BN20

Certified Professional Employer Organizations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations; correction.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9768) that were published in the **Federal Register** on May 6, 2016 (81 FR 27315). The final and temporary regulations are relating to certified professional employer organizations (CPEOs). The Stephen Beck, Jr. Achieving a Better Life Experience Act of 2014 requires the IRS to establish a voluntary certification program for professional employer organizations. These final and temporary regulations contain the requirements a person must satisfy in order to become and remain a CPEO.

DATES: This correction is effective on July 12, 2016 and applicable on May 6, 2016.

FOR FURTHER INFORMATION CONTACT: Melissa L. Duce at (202) 317–6798 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9768) that are the subject of this correction are under sections 3511, and 7705 of the Internal Revenue Code.

Need for Correction

As published, the final and temporary regulations (TD 9768) contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the final and temporary regulations (TD 9768), that are the subject of FR Doc. 2016–10700, are corrected as follows:

1. On page 27320, in the preamble, the third column, the fourth line from the top of the footnote, the language "by chapter 23 of Code, the IRS expects to evaluate" is corrected to read "by chapter 23 of the Code, the IRS expects to evaluate".

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2016–16400 Filed 7–11–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 97 and 160

46 CFR Part 97

[Docket No. USCG–2000–7080]

RIN 1625–AA25 [Formerly RIN 2115–AF97]

Cargo Securing Manuals

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; information collection approval.

SUMMARY: The Coast Guard announces that it has received approval from the Office of Management and Budget for an information collection request associated with the Cargo Securing Manuals interim rule we published in the **Federal Register** on May 9, 2016. In that rule, we stated the interim rule will impose new information collection requirements and that we would submit these new information collection requirements to OMB for its review and publish a document in the **Federal Register** announcing the results of OMB's review. OMB approved this new collection of information, entitled Cargo Securing Manuals, on June 23, 2016, and assigned it OMB control number 1625–0122.

DATES: On June 23, 2016, OMB approved the Coast Guard's collection of information request associated with the Cargo Securing Manuals interim rule published May 9, 2016 at 81 FR 27992. OMB's approval for this collection of information expires on June 30, 2019.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ken Smith, Environmental Standards Division (CG–OES–2), U.S. Coast Guard; telephone 202–372–1413, email *Ken.A.Smith@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Viewing Items Associated With This Document

To view OMB's approval memo or the Cargo Securing Manuals interim rule, go to *www.regulations.gov,* type the docket number, USCG–2000–7080, in the

"SEARCH" box and click "SEARCH." Click on "Open Docket Folder" in the first item listed. Use the following link to go directly to the docket: *http://www.regulations.gov/#!docketDetail;D=USCG-2000-7080.*

Background

On May 9, 2016, the Coast Guard published an interim rule (81 FR 27992) that implemented cargo securing manual requirements. Part 97, subpart A, and § 160.215 of 33 CFR and 46 CFR 97.12–10 in that rule contain collection-of-information provisions that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. On June 23, 2016, the OMB approved the Coast Guard's collection of information request for this interim rule and assigned OMB Control Number 1625–0122 to the new collection entitled, Cargo Securing Manuals. The approval for this collection of information expires on June 30, 2019.

This document is issued under the authority of 5 U.S.C. 552(a).

Dated: July 6, 2016.

F.J. Sturm,

Acting Director, Commercial Regulations and Standards.

[FR Doc. 2016–16416 Filed 7–11–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2016–0011]

RIN 1625- AA08

Special Local Regulation; Drag Boat Championship, Intracoastal Waterway; Bucksport, SC

AGENCY: Coast Guard, DHS

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the Bucksport/Southeastern Drag Boat Summer Championship, on August 13, 2016 and August 14, 2016. This special local regulation is necessary to ensure the safety of participants, spectators, and the general public during the event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from August 13, 2016 through August 14, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0011 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On December 27, 2015, the Bucksport Marina notified the Coast Guard that it will sponsor a series of drag boat races from noon to 7 p.m. on August 13, 2016 and August 14, 2016. In response, on April 6, 2016, the Coast Guard published a notice of proposed rulemaking titled Bucksport/Southeastern Drag Boat Summer Championship, Atlantic Intracoastal Waterway; Bucksport, SC. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this special local regulation. During the comment period that ended May 6, 2016, we received no comments.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during the two days of drag boat races.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 6, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

On August 13, 2016 and August 14, 2016, Bucksport Marina will host a series of drag boat races on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the Bucksport/Southeastern Drag Boat Summer Championship. Approximately 75 powerboats are anticipated to participate in the races and approximately 35 spectator vessels are expected to attend the event. This rule establishes a special local regulation on certain waters on the Atlantic Intracoastal Waterway in Bucksport, South Carolina. The special local regulation will be enforced daily from noon until 7 p.m. on August 13, 2016 and August 14, 2016.

Except for those persons and vessels participating in the drag boat races, persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the race areas unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the race areas may contact the Captain of the Port Charleston by telephone at (843)740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the race areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. This rule is not a significant regulatory action under section 3(f) of

Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) Non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by the Captain of the Port Charleston or a designated representative; (2) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative may operate in the surrounding areas during the enforcement period; (3) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners; and (4) the safety zone will impact only a small designated area of the Atlantic Intracoastal Waterway for the 2 days of August 13, and 14, 2016 from noon to 7 p.m., and thus is limited in time and scope.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owner or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons discussed in Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction.

An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T07–0011 to read as follows:

§ 100.35T07–0011 Bucksport/Southeastern Drag Boat Summer Championship Atlantic Intracoastal Waterway; Bucksport, SC.

(a) *Regulated Area.* All waters of the Atlantic Intracoastal Waterway encompassed by a line connecting the following points: Point 1 in position 33°39′13″ N., 079°05′36″ W.; thence west to point 2 in position 33°39′17″ N., 079°05′46″ W.; thence south to point 3 in position 33°38′53″ N., 079°05′39″ W.; thence east to point 4 in position 33°38′54″ N., 079°05′31″ W.; thence north back to point 1. All coordinates are North American Datum 1983.

(b) *Definition.* As used in this section, "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area, except persons and vessels participating in Bucksport/Southeastern Drag Boat Summer championship or serving as safety vessels. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843)740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(2) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced daily from noon until 7 p.m. on August 13, and August 14, 2016.

Dated: June 27, 2016.

G.L. Tomasulo,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2016–16334 Filed 7–11–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2016–0559]

RIN 1625–AA08

Special Local Regulations; Marine Events Held in the Sector Long Island Sound Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three special local regulations for three separate marine events within the Coast Guard Sector Long Island Sound (LIS) Captain of the Port (COTP) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring, or anchoring within these regulated areas is prohibited unless authorized by COTP Sector Long Island Sound.

DATES: This rule is effective without actual notice from 12:01 a.m. on July 12, 2016 until 11:00 a.m. on August 6, 2016. For the purposes of enforcement, actual notice will be used from the date the rule was signed, June 23, 2016, until July 12, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0559 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Petty Officer Jay TerVeen, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468–4446, email *Jay.C.TerVeen@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
LIS	Long Island Sound
NPRM	Notice of Proposed Rulemaking
NAD 83	North American Datum 1983

II. Background Information and Regulatory History

This rulemaking establishes three special local regulations for two swim events and one fireworks display. Each event and its corresponding regulatory history are discussed below.

The Jones Beach State Park Fireworks is a recurring marine event with regulatory history. This recurring event is codified in Table 1 to 33 CFR 165.151 (7.19). The Coast Guard is using a Special Local Regulation for this event due to a determination that a safety zone will be insufficient to mitigate the event's extra and unusual hazards this year.

The Mystic Sharkfest Swim is a recurring marine event with regulatory history. A special local regulation was established in 2015 for the Mystic Sharkfest Swim event when the Coast Guard issued a temporary rule entitled, "Special Local Regulation; Mystic Sharkfest Swim; Mystic River; Mystic, CT."

Island Beach Two Mile Swim is a recurring marine event with regulatory history. A special local regulation was established for this event on July 29, 2015 via a temporary final rule entitled, "Special Local Regulations; Marine Events held in the Sector Long Island Sound Captain of the Port Zone." This rule was published on August 13, 2015 in the **Federal Register** (80 FR 48436).

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable. There is insufficient time to publish an NPRM, take public comments, and issue a final rule before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for Rule

The legal basis for this temporary rule is 33 U.S.C. 1233.

The COTP Sector LIS has determined that the special local regulations established by this temporary final rule are necessary to provide for the safety of life on navigable waterways during these events.

IV. Discussion of the Rule

This rule establishes three special local regulations for two swim events and one fireworks show. The locations of these regulated areas are as follows:

Special Local Regulations

1. Jones Beach Fireworks Display	Location: There will be three areas created for the special local regulation. The first area, "No Entry Area", is on the navigable waterway located along the south shore of Jones Beach State Park. The second area, "Slow/No Wake Area", is located on the navigable waterway between Meadowbrook State Parkway and Wantagh State Parkway. The third area, "No Southbound Traffic Area", in the navigable waters of Zach's Bay.
2. Mystic Sharkfest Swim	Location: All waters of Mystic River off Mystic, CT contained within the following area; beginning at a point on land in position at 41°21′41″ N., 071°58′01″ W.; then south-west across Mystic River to a point on land in position at 41°21′36″ N., 071°58′05″ W.; near Pearl Street then south-east along the shoreline to a point on land in position at 41°21′31″ N.; 071°58′02″ W.; near Park Place; then south-west along the shoreline to a point on land in position at 41°21′27″ N., 071°58′07″ W.; near Gravel Street; then south along the shoreline to a point on land in position 41°21′10″ N, 071°58′14″ W.; then east across Mystic River to a point on land in position 41°21′09″ N., 071°58′11″ W.; then north along the shoreline to a point on land in position 41°21′21″ N., 071°58′02″ W., then east along the shoreline to a point on land in position 41°21′25″ N., 071°57′53″ W. near Holmes Street, then north along the shoreline to a point on land in position 41°21′38″ N., 071°57′53″ W.; near the Mystic Seaport Museum and then northwest along the shoreline back to point of origin (NAD 83).
3. Island Beach Two Mile Swim	Location: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59′23.35″ N., 073°36′42.05″ W., then northwest to 40°59′51.04″ N., 073°37′57.32″ W., then southwest to 40°59′45.17″ N., 073°38′01.18″ W., then southeast to 40°59′17.38″ N., 073°36′45.90″ W., then northeast to the beginning point at 40°59′23.35″ N., 073°36′42.05″ W.; (NAD 83).

This rule establishes additional vessel movement rules within areas specifically under the jurisdiction of the special local regulations during the periods of enforcement unless authorized by the COTP or designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: (1) The enforcement of these regulated areas will be relatively short in duration, (2) persons or vessels desiring entry into the "No Entry" areas or a deviance from the stipulations within the "Slow/No Wake Areas" may be authorized to do so by the COTP Sector Long Island Sound or designated representative, may do so with permission from the COTP Sector LIS or a designated representative; (3) vessels can operate within the regulated area provided they do so in accordance with the regulation and (4) before the effective period, public notifications will be made to local mariners through appropriate means, which may include the Local Notice to Mariners as well as Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit these regulated areas may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This temporary rule involves the establishment of three regulated areas. It is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T01–0559 to read as follows:

§ 100.T01–0559 Special Local Regulations; Marine Events held in the Sector Long Island Sound Captain of the Port Zone.

(a) *Location.* This section will be enforced at the locations listed for each event in the Table 1 to § 100.T01–0559.

(b) *Enforcement Period.* This rule will be enforced on the dates and times listed for each event in Table 1 to § 100.T01–0559.

(c) *Definitions.* The following definitions apply to this section: A "designated representative" is any Coast Guard commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. "Official patrol vessels" may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 100.35 apply.

(2) Operators of vessels desiring to deviate from these regulations should contact the COTP Sector Long Island Sound at (203) 468–4401 (Sector LIS command center) or the designated representative via VHF channel 16 to obtain permission to do so.

(3) Any vessel given permission to deviate from these regulations must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

TABLE 1 TO § 100.T01–0559—SPECIAL LOCAL REGULATIONS

1. Jones Beach Fireworks Display	• Date: July 4, 2016. • Rain Date: July 5, 2016. • Time: 9:00 p.m. to 10:25 p.m.

TABLE 1 TO § 100.T01–0559—SPECIAL LOCAL REGULATIONS—Continued

	• Location: “No Entry Area”: [Barge Location] “Slow/No Wake Area”: All navigable waters between Meadowbrook State Parkway and Wantagh State Parkway and contained within the following area. Beginning in approximate position 40°35′49.01″ N., 73°32′33.63″ W.; then north along the Meadowbrook State Parkway to its intersection with Merrick Road in approximate position 40°39′14.00″ N., 73°34′00.76″ W.; then east along Merrick Road to its intersection with Wantagh State Parkway in approximate position 40°39′51.32″ N., 73°30′43.36″ W.; then south along the Wantagh State Parkway to its intersection with Ocean Parkway in approximate position 40°35′47.30″ N., 73°30′29.17″ W. then west along Ocean Parkway to its intersection with Meadowbrook State Parkway at the point of origin in approximate position 40°35′49.01″ N., 73°32′33.63″ W.;“ No Southbound Traffic Area”: All navigable waters of Zach's Bay south of the line connecting a point near the western entrance to Zach's Bay in approximate position 40°36′29.20″ N., 073°29′22.88″ W.; and a point near the eastern entrance of Zach's Bay in approximate position 40°36′16.53″ N., 073°28′57.26″ W.
2. Mystic Sharkfest Swim	• Date: July 9, 2016. • Time: 7:30 a.m. to 10:00 a.m. • Location: “All waters of Mystic River off Mystic, CT contained within the following area; beginning at a point on land in position at 41°21′41″ N., 071°58′01″ W.; then south-west across Mystic River to a point on land in position at 41°21′36″ N., 071°58′05″ W. near Pearl Street then south-east along the shoreline to a point on land in position at 41°21′31″ N., 071°58′02″ W. near Park Place; then south-west along the shoreline to a point on land in position at 41°21′27″ N., 071°58′07″ W. near Gravel Street; then south along the shoreline to a point on land in position 41°21′10″ N., 071°58′14″ W.; then east across Mystic River to a point on land in position 41°21′09″ N., 071°58′11″ W.; then north along the shoreline to a point on land in position 41°21′21″ N., 071°58′02″ W., then east along the shoreline to a point on land in position 41°21′25″ N., 071°57′53″ W. near Holmes Street, then north along the shoreline to a point on land in position 41°21′38″ N., 071°57′53″ W. near the Mystic Seaport Museum and then northwest along the shoreline back to point of origin” (NAD 83). • Additional Stipulations: (1) In accordance with the general regulations found in section 100.35 of this part, we are requiring non-event vessels transiting through the area during the enforcement period to travel at no wake speeds or 6 knots, whichever is slower and that vessels shall not block or impede the transit of event participants, event safety vessels or official patrol vessels in the regulated area unless authorized by the Captain of the Port (COTP) or designated representatives. (2) All persons transiting through the area shall maintain a minimum distance of 100 feet from the swimmers.
3. Island Beach Two Mile Swim	• Date: August 3, 2016. • Time: 7:30 a.m. to 11:00 a.m. • Location: The following area is a safety zone: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59′23.35″ N. 073°36′42.05″ W., then northwest to 40°59′51.04″ N. 073°37′57.32″ W., then southwest to 40°59′45.17″ N. 073°38′01.18″ W., then southeast to 40°59′17.38″ N. 073°36′45.90″ W., then northeast to the beginning point at 40°59′23.35″ N. 073°36′42.05″ W. (NAD 83). • Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the swimmers.

Dated: June 23, 2016.

K.B. Reed,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Long Island Sound.

[FR Doc. 2016–16518 Filed 7–11–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, 147, and 165

[USCG–2016–0607]

2016 Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notice of expired temporary rules issued.

SUMMARY: This document provides notice of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This notice lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules that became effective, primarily between January 2016 and March 2016, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

ADDRESSES: Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Yeoman First Class Maria Fiorella Villanueva, Office of Regulations and Administrative Law, telephone (202) 372–3862.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between September 2013–March 2016 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the list below.

Docket No.	Type	Location	Effective date
USCG–2013–0296	Special Local Regulation	Poonce, PR	9/1/2013
USCG–2013–0978	Safety Zone	Nashville, TN	12/6/2013
USCG–2014–0409	Safety Zone	Cocos Lagoon, Guam	6/1/2014
USCG–2014–0690	Special Local Regulation	Qguada, PR	8/3/2014
USCG–2014–0792	Safety Zone	Galveston, TX	8/18/2014
USCG–2014–0770	Safety Zone	San Francisco, CA	9/15/2014
USCG–2012–0087	Security Zone	Tacoma, WA	12/1/2014
USCG–2015–0306	Safety Zone	Cabo Rojo, PR	4/19/2015
USCG–2015–0266	Safety Zone	Alexandria, LA	5/2/2015
USCG–2015–0405	Safety Zone	Catoosa, OK	6/27/2015
USCG–2015–0846	Safety Zone	San Juan Area	8/27/2015
USCG–2015–0442	Special Local Regulation	Fort Smith, AR	10/10/2015
USCG–2015–0938	Safety Zone	San Francisco, CA	11/1/2015
USCG–2015–0982	Safety Zone	Memphis, TN	12/1/2015
USCG–2015–1028	Safety Zone	Sausalito, CA	12/12/2015
USCG–2015–1105	Safety Zone	Memphis, TN	12/14/2015
USCG–2015–0988	Safety Zone	Tennessee River	12/28/2015
USCG–2015–1089	Safety Zone	Upper Mississippi River	12/30/2015
USCG–2015–1036	Safety Zone	Natchez, Mississippi	12/31/2015
USCG–2015–1044	Safety Zone	Northport, NY	1/1/2016
USCG–2015–1122	Safety Zone	Lower Mississippi River	1/1/2016
USCG–2014–0795	Safety Zone	Seattle, WA	1/5/2016
USCG–2016–0013	Safety Zone	Los Angeles, CA	1/7/2016
USCG–2016–0027	Safety Zone	Lower Mississippi River	1/9/2016
USCG–2015–0655	Safety Zone	Guam	1/10/2016
USCG–2016–0008	Safety Zone	Pascgoula, MS	1/11/2016
USCG–2015–1117	Security Zone	Washington, DC	1/12/2016
USCG–2016–0043	Safety Zone	Lower Mississippi River	1/12/2016
USCG–2016–0015	Security Zone	Baltimore, MD	1/13/2016
USCG–2016–0041	Security Zone	Philadelphia, PA	1/15/2016
USCG–2016–0051	Safety Zone	Alton, IL	1/15/2016
USCG–2016–0053	Safety Zone	North Shore Oahu, HI	1/15/2016
USCG–2016–0050	Safety Zone	Lake Charles, LA	1/15/2016
USCG–2016–0050	Safety Zone	Lake Charles, LA	1/15/2016
USCG–2015–1129	Safety Zone	Tanapag Harbor, Saipan	1/16/2016
USCG–2016–0049	Safety Zone	San Pedro, CA	1/18/2016
USCG–2016–0052	Security Zone	Detroit, MI	1/20/2016
USCG–2015–1085	Safety Zone	San Francisco, CA	1/20/2016
USCG–2016–0063	Safety Zone	Stockton, CA	1/20/2016
USCG–2016–0068	Safety Zone	North Shore Oahu, HI	1/20/2016

Docket No.	Type	Location	Effective date
USCG–2016–0073	Safety Zone	Lower Mississippi River	1/21/2016
USCG–2016–0075	Safety Zone	Ventura, CA	1/22/2016
USCG–2014–0293	Safety Zone	Port Baltimore, MD	1/22/2016
USCG–2016–0071	Safety Zone	Casmalia, CA	1/28/2016
USCG–2015–1128	Safety Zone	San Francisco, CA	1/28/2016
USCG–2016–0055	Safety Zone	Alton, IL	1/29/2016
USCG–2015–0530	Safety Zone	Lake Michigan Zone	1/30/2016
USCG–2016–0069	Safety Zone	Chicago, IL	1/30/2016
USCG–2016–0091	Safety Zone	Los Angeles, CA	1/31/2016
USCG–2016–0101	Safety Zone	Lower Mississippi River	2/2/2016
USCG–2016–0001	Safety Zone	San Francisco, CA	2/3/2016
USCG–2016–0108	Safety Zone	Los Angeles and San Pedro, CA	2/5/2016
USCG–2015–1077	Special Local Regulation	Brandenton, FL	2/6/2016
USCG–2015–1025	Safety Zone	Manhattan, NY	2/6/2016
USCG–2016–0079	Safety Zone	San Pedro, CA	2/6/2016
USCG–2016–0030	Safety Zone	San Francisco, CA	2/6/2016
USCG–2016–0107	Safety Zone	Ventura, CA	2/9/2016
USCG–2016–0068	Safety Zone	North Shore Oahu, HI	2/10/2016
USCG–2015–1130	Safety Zone	Santa Beach, FL	2/11/2016
USCG–2016–0042	Safety Zone	Lower Mississippi River	2/13/2016
USCG–2016–0149	Safety Zone	Pascagoula, MS	2/13/2016
USCG–2016–0105	Security Zone	Anaheim Bay, CA	2/17/2016
USCG–2016–0146	Safety Zone	Harbor Ohau, HI	2/20/2016
USCG–2015–1092	Safety Zone	Nashville, TN	2/24/2016
USCG–2016–0059	Safety Zone	Sag Harbor, NY	2/28/2016
USCG–2016–0166	Safety Zone	Urbanna, VA	2/29/2016
USCG–2016–0197	Safety Zone	Lake Charles, LA	3/8/2016
USCG–2016–0089	Drawbridges	Sacramento, CA	3/12/2016
USCG–2016–0216	Safety Zone	Orange, TX	3/13/2016
USCG–2016–0223	Safety Zone	Los Angeles, CA	3/17/2016
USCG–2016–0006	Special Local Regulation	Nashville, TN	3/19/2016
USCG–2016–0211	Drawbridges	San Francisco, CA	3/20/2016
USCG–2016–0234	Safety Zone	Lower Mississippi River	3/22/2016
USCG–2014–0797	Safety Zone	Cathlamnet, WA	3/24/2016
USCG–2014–0798	Safety Zone	Coos Bay, OR	3/24/2016
USCG–2016–0231	Security Zone	Miami, FL	3/24/2016

Dated: June 27, 2016.

Rebecca Orban,

Acting Chief, Office of Regulations and Administrative Law.

[FR Doc. 2016–16345 Filed 7–11–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–1057]

RIN 1625–AA09

Drawbridge Operation Regulation; Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Metro-North WALK Bridge across the Norwalk River, mile 0.1, at Norwalk, Connecticut. The bridge owner submitted a request to require a greater advance notice for bridge openings and to increase time periods the bridge remains in the closed position during the weekday morning and evening rush hours. It is expected that this change to the regulations will create efficiency in drawbridge operations while continuing to meet the reasonable needs of navigation.

DATES: This rule is effective August 11, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type "USCG–2014–1057" in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Christopher J. Bisignano, Supervisory Bridge Management Specialist, First Coast Guard District, Coast Guard; telephone (212) 514–4331 or email *Christopher.j.bisignano@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive Order
FR	Federal Register
NPRM	Notice of proposed rulemaking
SNPRM	Supplemental notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard twice published a notice of proposed rulemaking to adjust when the draw of the Metro-North WALK Bridge will be available to open Monday through Friday, excluding holidays. In response to comments received to the notice of proposed rulemaking (NPRM), published in August 2015 (80 FR 52423), the Coast Guard conducted further review of tidal data, bridge logs and train schedules.

On April 4, 2016, we published a supplemental notice of proposed rulemaking *(SNPRM)* entitled Drawbridge Operation Regulation; Norwalk River, Norwalk, CT, in the **Federal Register** (81 FR 19094), soliciting comments on the proposed rule through May 4, 2016. In addition, Commander (dpb), First Coast Guard District published Public Notice 1–150 dated April 4, 2016. We received two comments on the proposed rule, which will be addressed in Section IV, below.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 499.

The Metro-North WALK Bridge, mile 0.1, across the Norwalk River at Norwalk, CT, has a vertical clearance in the closed position of 16 feet at mean high water and 23 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.217(b). The waterway users are seasonal recreational vessels and commercial vessels of various sizes. The owner of the bridge, Connecticut Department of Transportation (CDOT), requested a change to the Drawbridge Operation Regulations because the volume of train traffic across the bridge during the peak commuting hours makes bridge openings impractical under the current schedule. As a result, bridge openings that occur during peak commuter train hours cause significant delays to commuter rail traffic.

The Coast Guard believes these final changes balance the needs of rail and vessel traffic. The proposed changes enhance rail traffic without significantly impacting vessel traffic.

IV. Discussion of Comments, Changes and the Final Rule

We received two submissions commenting on the SNPRM. One comment requested that any modification to the existing rule should not be extended past the initiation of construction of a new replacement bridge. The Coast Guard disagrees. A replacement bridge is only in the planning stage at CDOT. Design and construction of a replacement project for a bridge of this scale typically takes several years. As the timeline of a potential bridge replacement is uncertain, the Coast Guard cannot consider it within this rulemaking.

One comment suggested the Coast Guard consider revising the AM peak window to end at 8:45 a.m. and revising the PM peak window to begin at 4:15 p.m. and end at 8:20 p.m. to better accommodate commuters. The Coast Guard believes that the proposed rule offers greater consideration to peak commuter train traffic by restricting bridge openings until 9:45 a.m. The Coast Guard also believes that the PM peak revision of the proposed rule more adequately addresses the concerns in the comment by offering an additional 15 minutes on the front end by restricting bridge openings starting at 4 p.m. In addition, while the train schedules do adjust twice annually, only one train crosses the bridge between 8 p.m. and 8:20 p.m. Therefore, the Coast Guard believes ending the restriction to bridge openings at 8 p.m. is sufficient. The proposed changes balance the needs of rail and vessel traffic, enhancing rail traffic without significant adverse impact to vessel traffic.

The Coast Guard amends 33 CFR 117.217(b) as proposed in the SNPRM of April 4, 2016.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under E.O. 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice. The vertical clearance under the bridge in the closed position is relatively high enough to accommodate most vessel traffic during the time periods the draw is closed during the morning and evening commuter rush hours.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above this final rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.217, paragraph (b), to read as follows:

§ 117.217 Norwalk River.

* * * * *

(b) The draw of the Metro-North "WALK" Bridge, mile 0.1, at Norwalk, shall operate as follows:

(1) The draw shall open on signal between 4:30 a.m. and 9 p.m. after at least a two hour advance notice is given; except that, from 5:45 a.m. through 9:45 a.m. and from 4 p.m. through 8 p.m., Monday through Friday excluding holidays, the draw need not open for the passage of vessel traffic unless an emergency exists.

(2) From 9 p.m. through 4:30 a.m. the draw shall open on signal after at least a four hour advance notice is given.

(3) A delay in opening the draw not to exceed 10 minutes may occur when a train scheduled to cross the bridge without stopping has entered the drawbridge lock.

(4) Requests for bridge openings may be made by calling the bridge via marine radio VHF FM Channel 13 or the telephone number posted at the bridge.

Dated: June 23, 2016.

S.D. Poulin,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 2016–16226 Filed 7–11–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0462]

RIN 1625–AA00

Safety Zone; Hudson River, South Nyack and Tarrytown, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone for navigable waters of the Hudson River within a 200-yard radius of the LEFT COAST LIFTER crane barge during heavy lift operations. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by heavy lift operations conducted by the crane barge in the vicinity of the Tappan Zee Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

DATES: This rule is effective without actual notice from July 12, 2016 through December 31, 2018. For the purposes of enforcement, actual notice will be used from June 22, 2016 through July 12, 2016. Comments and related material must be received by the Coast Guard on or before August 11, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0462 using the *Federal e-Rulemaking Portal* at *http://www.regulations.gov.* See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Kristina Pundt, Waterways Management Division, U.S. Coast Guard; telephone 718–354–4352, email *Kristina.H.Pundt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
NYSTA	New York State Thruway Authority
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because publishing a NPRM would be impracticable. A delay or cancellation of the currently ongoing bridge project in order to accommodate a full notice and comment period would delay necessary operations, result in increased costs, and delay the date when the bridge is expected to reopen for normal operations. For these reasons, the Coast Guard finds it impracticable to delay this regulation for purposes of a comment period.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable for the same reasons specified above.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that the potential hazards associated with the LEFT COAST LIFTER's cable and anchor system create a serious safety concern for anyone transiting within a 200-yard radius of the LEFT COAST LIFTER during heavy lift operations. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while constructing the New NY Bridge and demolishing the existing Tappan Zee Bridge.

Construction on the Tappan Zee Bridge replacement project began on October 1, 2013. Heavy lift operations to install the new bridge superstructure over the Hudson River have presented new safety hazards and risks to vessels transiting the area due to the Left Coast Lifter's crane barge four-point anchor and cable system deployed while lifting heavy loads over the navigable waters of the Hudson River. The anchor and cable system extends outward from the crane barge, up to 200 yards, in four varying directions, at various heights above, and below, the water surface of the Hudson River. This presents a risk to mariners who may become entangled in the anchor cable system if they transit too close to the crane barge. We believe that a safety zone is needed to protect mariners during this period of construction.

IV. Discussion of the Rule

This rule establishes a safety zone from June 22, 2016, through December 31, 2018. The safety zone will cover all navigable waters of the Hudson River within 200 yards of the crane barge LEFT COAST LIFTER. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during heavy lift operations. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. The implementation of this temporary safety zone is necessary for the protection of all waterway users. The size of the zone is the minimum necessary to provide adequate protection for the waterway users, adjoining areas, and the public. Vessel traffic will be able to safely transit around this safety zone. Any hardships experienced by persons or vessels are considered minimal compared to the interest in protecting the public.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security

Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that will prohibit entry within 200 yards of the crane barge LEFT COAST LIFTER during heavy lift operations. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0462 to read as follows:

§ 165.T01–0462 Safety Zone; Tappan Zee Bridge Construction Project, Hudson River, South Nyack and Tarrytown, NY.

(a) *Location.* The following area is a safety zone: All navigable waters within 200 yards of the crane barge LEFT COAST LIFTER while conducting heavy lift operations on the Hudson River.

(b) *Definitions.* As used in this section, *designated representative* means is any Coast Guard commissioned, warrant or petty officer who has been designated by the COTP to act on the COTP's behalf. The designated representative may be on a Coast Guard vessel or New York State Police, Westchester County Police, Rockland County Police, or other designated craft; or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or a COTP designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM channel 16 or by phone at (718) 354–4353 (Sector New York Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or a COTP designated representative.

(d) *Enforcement period.* This section will be enforced from June 22, 2016 through December 31, 2018.

Dated: June 22, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–16364 Filed 7–11–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 2

[NPS–WASO–AILO–15846; PX.XVPAD0522.0.1]

RIN 1024–AD84

Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is establishing a management framework to allow the gathering and removal of plants or plant parts by enrolled members of federally recognized Indian tribes for traditional purposes. The rule authorizes agreements between the National Park Service and federally recognized tribes that will facilitate the continuation of tribal cultural practices on lands within areas of the National Park System where those practices traditionally occurred, without causing a significant adverse impact to park resources or values. This rule respects those tribal cultural practices, furthers the government-to-government relationship between the United States and the tribes, and provides system-wide consistency for this aspect of National Park Service-tribal relations.

DATES: This rule will be effective on August 11, 2016.

FOR FURTHER INFORMATION CONTACT: Joe Watkins, Office of Tribal Relations and American Cultures, National Park Service, 1201 Eye Street NW., Washington, DC 20005, 202–354–2126, *joe_watkins@nps.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

Gathering and removing plants or plant parts is currently prohibited in National Park System areas unless specifically authorized by federal statute or treaty rights or conducted under the limited circumstances authorized by an existing regulation codified at 36 CFR 2.1(c).

This rule authorizes the National Park Service (NPS) to enter into agreements with federally recognized Indian tribes to allow for the gathering and removal of plants or plant parts from National Park System areas for traditional purposes. Only enrolled members of a federally recognized tribe will be allowed to collect plants or plant parts, and the tribe must be traditionally associated with the specific park area. This traditional association must predate the establishment of the park. The plant gathering must meet a traditional purpose that is a customary activity and practice rooted in the history of the tribe and is important for the continuation of the tribe's distinct culture. Authorized plant gathering must be sustainable and may not result in a significant adverse impact on park resources or values. The sale and commercial use of plants or plant parts within areas of the National Park System will continue to be prohibited by NPS regulations at 36 CFR 2.1(c)(3)(v).

This rule does not affect any existing statutory or treaty right to gather plants within areas of the National Park System.

Before gathering may occur within a park area, an Indian tribe must submit a written request to the park Superintendent for an agreement to allow tribal members to collect plants or plant parts. After a request is made, the Superintendent has 90 days to acknowledge receipt of the request and initiate consultation with the tribe. If the Superintendent does not initiate consultation within 90 days, then the tribe may submit the request to the Regional Director. If all of the criteria for entering into an agreement are met, the Superintendent will begin negotiations with the tribe for a gathering agreement in consultation with any other tribe that has gathering rights under treaty or federal statute or is party to a valid plant-gathering agreement with the NPS for that area. The NPS must prepare an environmental assessment meeting the requirements of the National Environmental Policy Act of 1969 (NEPA). If the proposed gathering would have a significant adverse impact on the environment, then the NPS will not authorize it. The NPS must prepare a finding of no significant impact before any plant gathering agreement may become effective. All plant-gathering agreements must contain the specific elements set forth in the rule and must receive the concurrence of the Regional Director, and all plant-gathering activities must be conducted in accordance with the terms and conditions of a special use permit issued by the Superintendent. The activities allowed by the permit must fall within the scope of activities agreed upon in the gathering agreement and analyzed in the environmental assessment.

The NPS will provide guidance to the park areas and participating tribes about how to implement this rule. Model agreements, templates, and other documents may be a part of the guidance, including suggestions for baseline documentation and monitoring protocols for gathering activities in each park area.

Background

The NPS has a unique relationship with Indian tribes, which is strengthened by a shared commitment to stewardship of the land and resources. This relationship is augmented by the historical, cultural, and spiritual relationships that Indian tribes have with the park lands and resources with which they are traditionally associated.

Indian tribes practiced their traditional harvests of plants and plant parts on or from lands that are now included in areas of the National Park System long before the arrival of European settlers. Much of this activity is currently prohibited by NPS regulations in 36 CFR part 2. The fundamental purpose of this rule is to relax this prohibition in limited circumstances to allow traditional gathering and removal of plants or plant parts while ensuring that there is no significant adverse impact to park resources and values.

Cooperation in the continuation of tribal traditions is at the heart of this rule. The NPS has a long history of encouraging Indian arts and crafts in national parks for the education and enjoyment of the public, and to support the continued practice of cultural traditions. The teaching and sharing of tribal traditions associated with national parks is an important part of the NPS mission. The rule provides new opportunities for the NPS and tribal governments to work together in support of the continuation of sustainable Indian cultural traditions that make up a unique and irreplaceable part of our national heritage.

The NPS has allowed limited gathering by hand of certain renewable natural resources since at least 1960. *See* 36 CFR 1.2(c) and 2.10(b) (1960) (allowing visitors to "pick and eat . . . such native fruits and berries as the superintendent may designate" in most NPS-administered areas and authorizing the superintendent of a national recreation area to "permit the collection or removal of natural objects," respectively). In 1966 the NPS expanded this authority for NPS-administered recreational areas, allowing the gathering or collecting for personal use of reasonable quantities of natural, renewable products (*e.g.*, seashells, fruits, berries, driftwood, and marine deposits of natural origin). 31 FR 16650, 16654 (1966). Existing NPS regulations at 36 CFR 2.1(c), promulgated in 1983, allow for the personal use or consumption of "fruits, berries, nuts, or unoccupied seashells" by the general public, subject to certain conditions.

Existing NPS regulations at 36 CFR 2.1(d) do not allow tribal members to gather plants or plant parts in park areas for ceremonial or religious purposes, except where federal statutes or treaties grant rights to do so. Traditional tribal gathering and removal, however, occurred in many areas that are now part of the National Park System, and not all of these activities are authorized by treaty or federal statute. This rule provides an orderly and consistent process to allow limited gathering and removal of plants or plant parts for traditional purposes under agreements between the NPS and federally recognized Indian tribes.

Over the past 20 years, studies in ethnobotany and traditional plant management, along with consideration of traditional ecological knowledge in scientific symposia and scholarly gatherings, have increased greatly. Research findings have shown that traditional conservation of plant species includes gathering and management techniques as well as social and cultural rules for avoiding over-exploitation (Berkes 2012; Blackburn and Anderson 1993; Anderson 2005; Deur and Turner 2005). Traditional gathering is carried out in ways that ensure plant replacement and abundance by using specific harvest criteria and foraging and cultivation strategies (Anderson 1993; Turner and Peacock 2005). The example of Pomo basketry and the husbandry and gathering of sedge plants to ensure continuing quality and quantity of basketry supplies is well known (Peri and Patterson 1976), and other wild plant species necessary for basket making such as willow and fern are managed similarly through harvesting, burning, and cultivation techniques (Ortiz 1993). Wild plant species used for food have been managed for thousands of years by native groups using specific gathering techniques to maximize both harvest and sustainability (McCarthy 1993; Farris 1993; Parlee and Berkes 2006), and the general management of landscapes and ecosystems by native peoples have been well documented (*e.g.* Hammett 2000; Nabhan 2000).

Research has shown that traditional gathering, when done with traditional methods (*i.e.*, by hand, without power tools) and in traditionally customary quantities, may help to conserve plant communities. Hand tools—for example, rakes, sticks, and knives—were the dominant means used by tribes to harvest plants in the past. Limiting plant harvesting to hand tools (those not powered by fossil fuels or electricity) limits secondary auditory and visual impacts of plant gathering. In addition, hand tools are consistent with activities that are allowed in areas that are categorized as eligible, study, proposed, recommended, or designated wilderness. A definition of "traditional gathering" has been added to the rule to clarify that gathering activities may be conducted only using hand tools.

This rule is consistent with NPS Management Policies 2006 (Management Policies) 4.2.1, the agency's top-tier written policy guidance, which directs the NPS to inventory, monitor, and research traditional knowledge and authorizes the NPS to support studies designed to understand the traditional resource management practices of Native Americans. The NPS Cultural Anthropology Program has engaged in research on traditional ecological knowledge and indigenous resource management for over 20 years. A recent example is centered on Sleeping Bear Dunes National Lakeshore in Michigan, where tribal members of the Grand Traverse Band of Ottawa and Chippewa Indians, the Little Traverse Bay Bands of Odawa Indians, and the Little River Band of Ottawa Indians helped to document the presence of culturally significant Odawa plant species and the specifics of cultural use (Stoffle et al. 2015). The NPS and tribal governments can draw on this research and may conduct further research to ensure that traditional tribal gathering and removal does not have a significant adverse impact on park resources or values. To the extent that it is appropriate and does not compromise tribal traditional knowledge, park visitors may also learn about the cultures associated with traditional tribal gathering practices.

This rule requires that the NPS comply with all applicable federal laws, including NEPA, before entering enter into an agreement that will allow gathering and removal of plants or plant parts in a National Park System area. These environmental reviews will document how the proposed traditional gathering activities may affect particular species of plants in ecosystems and locations within a park area.

Authority To Promulgate the Rule

What is commonly known as the NPS Organic Act, as amended and supplemented, established what is now the NPS and directed the Secretary of the Interior, acting through the NPS, to "promote and regulate the use of the National Park System by means and measures that conform to the fundamental purpose of the System units, which purpose is to conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 54 U.S.C. 100101(a). The NPS Organic Act further authorizes the Secretary to prescribe "such regulations as the Secretary considers necessary or proper for the use and management of [National Park] System units." 54 U.S.C. 100751(a).

Government-to-Government Relationship With Indian Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951); Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," of November 6, 2000; President Obama's Executive Memorandum on Tribal Consultation of November 5, 2009; Department of the Interior Secretarial Order No. 3317 of December 1, 2011, and Department of the Interior Departmental Manual Part 512, "American Indian and Alaska Native Programs;" the NPS has evaluated the potential effects of this rule on federally recognized Indian tribes and has determined that it has direct tribal implications.

Tribal Consultation

The NPS held six tribal consultation meetings in the "Lower 48" regarding this rule. NPS regional and park staff consulted with Indian tribes to select meeting locations in or near areas of the National Park System where gathering by tribal members has been discussed. One hundred and fifty representatives from 50 tribes attended meetings held from May through July 2010, in Bar Harbor, Maine; Flagstaff, Arizona; Pipestone, Minnesota; Yurok, California; Suquamish, Washington; and Cherokee, North Carolina. An additional meeting was held at Pipestone, Minnesota, in September 2010. Staff in Alaska contacted more than 70 federally recognized Indian tribes traditionally associated with parks in Alaska. Consultation then occurred with those tribes that requested it. Additionally, general presentations were given at two statewide conventions: The Alaska Tribal Leaders Summit in Fairbanks during the annual meetings of the Alaska Federation of Natives in October 2010 and the annual Bureau of Indian Affairs Providers Conference in Anchorage in December 2010. A conference call with traditional elders and tribal people not representing tribal governments was conducted in June 2010 at the request of Arvol Looking Horse, Keeper of the Sacred White Buffalo Calf Pipe of the Lakota, Dakota, and Nakota Nation of the Sioux. Park managers and staff attended these consultation meetings and participated in the discussions. The major concerns of representatives of tribal governments and the NPS are summarized and addressed here.

Gathering Limited to Enrolled Members of Federally Recognized Indian Tribes

Tribal representatives supported the concept that only enrolled members of federally recognized Indian tribes be allowed to gather and remove park resources for traditional purposes. This rule limits gathering and removal of plants or plant parts to members of an Indian tribe or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 479a. This requirement limits gathering and removal to members of Indian tribes with which the United States has a government-to-government relationship. Other groups that may be traditionally associated with park areas, including non-federally recognized tribes and Native Hawaiian groups, do not have the same legal and political relationship with the United States and therefore this rule does not extend to such groups. If a group later becomes federally recognized, the rule would then extend to it. The rule provides avenues for cooperative NPS-tribal government oversight of member activities on park lands to ensure that traditional gathering and removal remains sustainable with no significant adverse impacts to park resources or values, consistent with Management Policies 8.2.

Gathering Limited to Indian Tribes Traditionally Associated With Specific Park Lands

A central purpose of the rule is to support the continuation of Indian cultural traditions on lands that are now administered as areas of the National Park System. The rule allows gathering only by members of Indian tribes traditionally associated with specific park areas. Respecting the special and longstanding connections that Indian tribes have with parklands prior to the establishment of park areas is specifically acknowledged in Management Policies 1.11, which states that the "formal legal rationale for the relationship between the NPS and tribes is augmented by the historical, cultural, and spiritual relationships that American Indian tribes have with park lands and resources." The NPS believes there are approximately 433 federally-recognized tribes that may be traditionally associated with locations within approximately 215 areas of the National Park System. The NPS does not know, and has no way to estimate, how many of those tribes will be interested in entering into gathering agreements under this rule.

Government-to-Government Agreements

The NPS and tribal representatives supported agreements between tribal governments and the NPS to establish the conditions for gathering in park areas. These agreements will respect both tribal sovereignty and the NPS's authority to manage park resources and will authorize traditional tribal gathering in ways that may be administered flexibly to respond to local resource concerns. The participating tribal government will be responsible for designating which tribal members may gather in accordance with the terms and conditions set forth in the agreement and the subsequently issued special use permit.

Protecting Park Resources

Tribal representatives expressed deep concern for the long-term health of park ecosystems. Reminding the NPS of their long history of productive and protective relationships with such ecosystems, they expressed willingness to accept limitations on gathering to protect park resources. Although not required by this rule, NPS and tribal representatives may use this opportunity to develop park-specific plant gathering management plans to ensure the long-term health of any park resource that may be gathered. These plans would be in addition to the environmental review documents that are required by this rule and NEPA.

Respect for Tribal Cultural Traditions

Tribal representatives stressed that each Indian tribe is unique and that tribal agreements entered into under the rule should allow for traditional cultural practices specific to each tribe.

Traditional Gathering Needs May Be Site-Specific to National Park Lands

Tribal representatives expressed that some national park areas contain places where tribal members historically have gathered plant resources. Using a particular gathering site within a national park area may be vital to the continuation of a cultural tradition that cannot be met at locations outside the park, or even at alternative locations within it. Thus, even though some plants or plant parts may be available outside park lands, tribal members may still reasonably desire to gather at traditionally significant locations inside a park area. The rationale for in-park gathering of plants or plant parts that are also available outside park boundaries must be documented on a case-by-case basis under § 2.6(d) of the rule. The information used to make this determination may be subjected to peer review by qualified specialists from both the tribal and academic communities.

Collaborative Research and Administration

Tribal representatives expressed the desire to work with the NPS to create and maintain the knowledge base needed to manage gathering and removal and to leave park resources unimpaired for future generations. This may include joint research and monitoring, training programs for tribal members and park staff, and ongoing consultation regarding park resources.

Relationship of the Rule to Existing Regulations

Existing NPS regulations, promulgated in 1983, prohibit "possessing, destroying, injuring, defacing, removing, digging, or disturbing from its natural state" living or dead wildlife or fish, plants, paleontological specimens, or mineral resources, or the parts or products of any of these items, except as otherwise provided in NPS regulations. 36 CFR 2.1. The new rule, to be codified at 36 CFR 2.6, creates an exception to current regulations by authorizing resource- and location-specific agreements between the NPS and federally recognized Indian tribes to gather and remove plants or plant parts for traditional purposes.

Plants or plant parts gathered under this rule may not be used for "benefits sharing," which allows for the commercial use of research results derived from material collected in a park area through the specimen collection permit procedures in 36 CFR 2.5. *See* Management Policies 4.2.4.

This rule does not affect 36 CFR 2.1(c)(1), which allows a park Superintendent to designate certain fruits, berries, nuts, or unoccupied seashells that may be gathered by hand for personal use and consumption, subject to a determination that the gathering or consumption will not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources.

This rule amends § 2.1(d), which now states that "[t]his section [36 CFR 2.1] shall not be construed as authorizing the taking, use or possession of fish, wildlife, or plants for ceremonial or religious purposes, except where specifically authorized by federal statutory law, treaty rights or in accordance with § 2.2 [wildlife protection] or § 2.3 [fishing]." This rule authorizes the gathering and removal of plants or plant parts for traditional purposes under NPS-tribal agreements but does not alter the prohibition on taking, using, or possessing fish or wildlife for such purposes.

NPS Areas in Alaska

In many of the National Park System units in Alaska, 36 CFR 13.35 regulates the gathering and collection of natural products and allows for the limited gathering of a wider range of natural products than are included in this rule. Except for the four park areas[1] listed in § 13.35(a), § 13.35(c) allows gathering, by hand and for personal use only, of renewable resources like natural plant food items (*e.g.*, fruits, berries, and mushrooms) that are not threatened or endangered species; driftwood and uninhabited seashells; and plant materials and minerals that are essential to the conduct of traditional ceremonies by Native Americans. This rule has no practical effect within these units in Alaska where § 13.35(c) applies, because this rule allows for a more limited scope of collection than does the Alaska-specific regulation. The rule applies to the park areas in Alaska listed in § 13.35(a) and to parks in the remainder of the United States. The rule does not address subsistence activities that are authorized in Alaska by 36 CFR 13.400–13.495.

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[1] Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, and the former Katmai National Monument.

Summary of and Responses to Public Comments

On April 20, 2015, the NPS published the proposed rule in the **Federal Register** (80 FR 21674). The rule was open for public comment for 90 days, until July 20, 2015. The NPS reopened the comment period from August 12 through September 28, 2015 (80 FR 48280). The NPS invited comments through the mail and the Federal eRulemaking Portal at *http://www.regulations.gov.*

The NPS received 90 pieces of correspondence with comments on the proposed rule: 37 from federally recognized tribes, 40 from private citizens, 10 from non-profit organizations, and three from state governments. In general, the comments fell into the following categories:

- Authority to promulgate the rule
- Compliance with NEPA
- Tribal consultation process
- Process for authorizing gathering activities
- Commercial use of gathered plants and plant parts
- Treaty rights
- Tribal Self-Governance Act
- National Historic Preservation Act and Traditional Cultural Properties

A summary of comments and NPS responses is provided below followed by a table that lists changes the NPS has made in the final rule based on comment analysis and other considerations.

Authority To Promulgate the Rule

1. Comment: Several comments questioned the NPS's authority to promulgate the rule, asserting that the NPS Organic Act precludes the NPS from allowing any "consumptive" uses of park resources like the gathering and removal of plants or plant parts.

NPS Response: The NPS Organic Act, as amended and supplemented, directs the NPS "to conserve the scenery, natural and historic objects, and wild life" in areas of the National Park System. 54 U.S.C. 100101(a). The conservation mandate in the Organic Act does not mean, however, that the NPS must preserve every individual member of every species of plant and animal and every rock, mineral, and other inorganic feature in a park area. Likewise, it does not mean that the NPS may not authorize members of the public to collect, gather, or consume certain park resources under carefully circumscribed conditions. Indeed, the NPS has long interpreted the conservation mandate in the Organic Act to allow the limited collection, gathering, or consumption of specifically identified park resources as long as the impacts from those activities do not result in the impairment of park resources or values.

For example, as mentioned above, the NPS has allowed the limited gathering by hand of certain renewable natural resources in park areas for personal use or consumption since at least 1960,[2] an activity currently authorized under 36 CFR 2.1(c).[3] The NPS has also allowed recreational fishing in park areas since at least 1943,[4] an activity currently authorized under 36 CFR 2.3. NPS regulations also allow the taking of plants, fish, wildlife, rocks, and minerals pursuant to a specimen collection permit, which may be issued for the purpose of research, baseline inventories, monitoring, impact analysis, group study, or museum display. 36 CFR 2.5. The NPS believes that the gathering and removal activities authorized by this rule, conducted in accordance with the terms and conditions of the NPS-tribal gathering agreements and the NPS-issued special use permits that will implement those agreements, constitute a limited and appropriate (albeit consumptive) use of park resources that will not result in the impairment of those resources.

The fact that Congress has in certain instances explicitly directed the Secretary to allow the gathering or consumption of park resources by members of American Indian tribes [5] does not call into question the NPS's discretionary authority to promulgate this rule under the authority of the NPS Organic Act. On the contrary, those park-specific statutes reflect Congress's awareness that the NPS's now-longstanding regulatory limitation on the taking, use, or possession of fish, wildlife, or plants for ceremonial or religious purposes in 36 CFR 2.1(d) [6] has had a negative impact on tribes and traditional tribal cultural practices and its recognition that allowing traditional uses of park resources is an issue of great importance to federally recognized Indian tribes (as well as to the United States government). Accordingly, Congress acted to nullify the NPS's regulatory provision in those specific instances. Congress's actions, however, do not imply that the NPS lacks discretionary authority under the NPS Organic Act to modify its general regulatory scheme to better address and accommodate tribal interests and concerns throughout the National Park System.

This rule is also consistent with written guidance interpreting the NPS Organic Act that is contained in the Management Policies, the agency's top-tier written policy guidance. As discussed above, the NPS has long understood that the mandate in the

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[2] *See* 36 CFR 1.2(c) and 2.10(b) (1960) (allowing visitors to "pick and eat, but not carry out of the parks and monuments, such native fruits and berries as the superintendent may designate" in most NPS-administered areas and authorizing the superintendent of a national recreation area to "permit the collection or removal of natural objects," respectively).

[3] The NPS promulgated the current authorization in 1983, when it last comprehensively revised its public-use regulations. 48 FR 30252 (1983).

[4] *See* 36 CFR 2.4 and 6.4 (1943) (allowing fishing in various national parks and monuments and in recreational demonstration areas, respectively).

[5] *See, e.g.,* § 5(e) of the Timbisha Shoshone Homeland Act, Public Law 106–423, 114 Stat. 1875, 1879 (2000) (directing Secretary of Interior to permit Timbisha Shoshone Tribe's continued use of park resources in "special use areas" in Death Valley National Park, California, "for traditional tribal purposes, practices, and activities," not including the taking of wildlife); § 2101 of the Cerro Grande Fire Supplemental, Division C of the Act of July 13, 2000, Public Law 106–246, 114 Stat. 583, 592 (directing Secretary of Interior to allow enrolled members of Pueblos of San Ildefonso and Santa Clara to collect plants or plant products and minerals in Bandelier National Monument, New Mexico); 16 U.S.C. 460uu-47 (directing Secretary of Interior to "assure nonexclusive access to [El Malpais National Monument and El Malpais National Conservation Area, New Mexico] by Indian people for traditional cultural and religious purposes, including the harvesting of pine nuts"); and 16 U.S.C. 698j (directing Secretary of Interior to permit members of Miccosukee Tribe and Seminole Tribe "to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within [Big Cypress National Preserve, Florida], including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials").

[6] 36 CFR 2.1(d) is currently phrased as a limitation on a Superintendent's authority under other subsections of 36 CFR 2.1: "This section shall not be construed as authorizing the taking, use or possession of fish, wildlife or plants for ceremonial or religious purposes, except where specifically authorized by Federal statutory law, treaty rights, or in accordance with § 2.2 or § 2.3." That language first appeared in the NPS's regulations in 1983, when the NPS last comprehensively revised its public-use regulations. The NPS added that language to the final rule in response to comments on the proposed rule. In doing so, the NPS explained, "The Service recognizes that the American Indian Religious Freedom Act directs the exercise of discretion to accommodate Native religious practice consistent with statutory management obligations. The Service intends to provide reasonable access to, and use of, park lands and park resources by Native Americans for religious and traditional activities. However, the National Park Service is *limited* by law and regulations from authorizing the consumptive use of park resources." 48 FR 30255 (1983) (emphasis added). The NPS Organic Act does indeed limit the NPS's authority to allow the consumptive use of park resources; however, it does not prohibit it. As discussed above, the NPS has long allowed certain consumptive uses of park resources and may allow the park-specific consumptive use of resources authorized by this rule as long as those resources are conserved overall and the consumptive use does not result in the impairment of park resources or values.

Organic Act to avoid impairment does not mean a mandate to avoid all impacts to park resource or values. The policies expressly acknowledge that "virtually every form of human activity that takes place within a park has some degree of effect on park resources or values, but that does not mean the impact is unacceptable or that a particular use must be disallowed." Management Policies 1.4.7.1. They also emphasize that the NPS Organic Act and other relevant statutes "give the [NPS] the management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of the affected resources and values." Management Policies 1.4.3. The policies define impairment as:

> an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. Whether an impact meets this definition depends on the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts.

Management Policies 1.4.5

In addition to impairment, the policies discuss the related concepts of "unacceptable impacts" to park resources or values and "appropriate use" of park areas. Unacceptable impacts "are impacts that fall short of impairment, but are still not acceptable within a particular park's environment," Management Policies 1.4.7.1, and an appropriate use of a park area is one that is "suitable, proper, or fitting for a particular park, or to a particular location within a park." Management Policies 1.5. Under the policies the NPS manager must determine which uses are appropriate in a particular location within the particular park area and may not allow unacceptable impacts to park resources or values.

If the traditional gathering and removal of certain plants or plant parts for traditional purposes by enrolled members of federally recognized Indian tribes that are traditionally associated with the park area is authorized and conducted in accordance with this rule, then the NPS believes that it is a suitable, proper, and fitting—and therefore appropriate—use of park resources. The rule defines "traditional association" as "a longstanding relationship of historical or cultural significance between an Indian tribe and a park area predating the establishment of the park area" and a "traditional purpose" as "a customary activity or practice that is rooted in the history of an Indian tribe and is important to the continuation of that tribe's distinct culture." Under the rule a tribe that wishes to gather and remove plants or plant parts from a park area must provide certain information to the NPS about its traditional association with the park area, and the NPS must determine, based on all available information, that the tribe is in fact traditionally associated with the park area and is proposing to gather and remove plants or plant parts within the park area for a traditional purpose.

Helping tribes maintain traditional cultural practices through access to plants or plant parts in park areas where the tribe has a traditional association helps fulfill one of the purposes of the National Park System, as described in Management Policies 1.11:

> As the ancestral homelands of many American Indian tribes, parks protect resources, sites, and vistas that are highly significant for the tribes. Therefore, the Service will pursue an open, collaborative relationship with American Indian tribes to help tribes maintain their cultural and spiritual practices and enhance the Park Service's understanding of the history and significance of sites and resources in the parks. Within the constraints of legal authority and its duty to protect park resources, the Service will work with tribal governments to provide access to park resources and places that are essential for the continuation of traditional American Indian cultural or religious practices.

The tribal gathering of plants or plant parts authorized by this rule is also consistent with Management Policies 8.9, which states that the NPS "generally supports the limited and controlled consumption of natural resources for traditional religious and ceremonial purposes and is moving toward a goal of greater access and accommodation."

The NPS also believes that the elements of this rule, and the requirements embedded in them, will ensure that any gathering and removal activities authorized by the rule will not result in unacceptable impacts to, or impairment of, park resources or values. Requests for gathering activities that would result in unacceptable impacts or impairment will be denied. The safeguarding elements of the rule include:

- Requiring that before tribal gathering activities may occur, the NPS and the tribe enter into a formal gathering agreement and the NPS issue the tribe a special use permit implementing the agreement. § 2.6(b)
- Requiring that a tribe submit a formal request demonstrating threshold eligibility for negotiating a gathering agreement with the NPS. § 2.6(c)
- Requiring that the Superintendent complete certain requirements before the NPS will enter into a gathering agreement. § 2.6(d)
- Requiring that the NPS complete an environmental assessment and a finding of no significant impact under NEPA prior to entering into a gathering agreement with an Indian tribe. § 2.6(d)
- Requiring that specific terms be included in each gathering agreement. § 2.6(f)
- Requiring that each gathering agreement be concurred in by the NPS Regional Director. § 2.6(g)
- Allowing the Superintendent to close park areas to gathering of plants and plant parts to protect environmental or scenic values or to protect natural resources. § 2.6(h)
- Allowing the Superintendent to suspend an agreement or permit if terms or conditions are violated or if unanticipated or significant adverse impacts occur. § 2.6(i)

The required agreement between the NPS and the tribe must include the elements listed in § 2.6(f) of the rule. These elements include:

- A description of the specific plants or plant parts that may be gathered and removed.
- Specification of the size and quantity of the plants or plant parts that may be gathered and removed.
- Identification of the times and locations at which the plants or plant parts may be gathered and removed.
- Identification of the methods that may be used for gathering and removal, which will be limited to gathering by hand without power tools.
- Protocols for monitoring gathering and removal activities and thresholds above which NPS and tribal management intervention will occur.

These contractual provisions will enable the NPS to monitor the severity, duration, and timing of any impacts from the gathering activities to prevent unacceptable impacts to, or impairment of, park resources or values.

In addition to the terms of the gathering agreement, gathering activities will be subject to the terms and conditions of a special use permit issued by the NPS to the tribe that will further ensure that gathering and removal of plants or plant parts do not cause unacceptable impacts to, or impair, park resources or values. The permit requirement will enable the NPS to modify the terms and conditions governing the collecting of plants or plant parts as circumstances change or new information comes to light. The permits will also identify the specific members of the tribe who are designated by the tribe to gather plants at a particular location within a park area. The NPS may not issue a permit unless it first determines that doing so is consistent with the criteria listed in 36 CFR 1.6(a). Finally, the rule allows the Superintendent to close any park area to gathering activities for various reasons, including the need to protect natural resources. These closures will apply notwithstanding the terms or any agreement or permit executed under the rule. The Superintendent may also suspend an agreement or permit if terms or conditions are violated or if unanticipated or significant adverse impacts occur.

This rule also requires the NPS to analyze the potential impacts of the proposed gathering and removal activities in accordance with the requirements of NEPA (by preparing an environmental assessment and a finding of no significant impact), the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and other applicable laws. The NPS may allow gathering and removal activities only if, during that compliance process, it determines that the proposed activities will not result in a significant adverse impact on park resources or values.

Some comments suggested that that if Congress intended 54 U.S.C. 100101 to give the NPS discretion to allow plant gathering, it would have been unnecessary for Congress to grant the Secretary of the Interior specific authority in 54 U.S.C. 100752 "to provide for the destruction of such . . . plant life as may be detrimental to the use of any System unit." The NPS believes that the latter statute is not relevant to this rule because by its own terms it concerns and authorizes management actions by the NPS or its agents or contractors; it does not apply to the consumptive use of park resources by members of the public. Rather, this rule falls under the broad discretionary authority granted to the NPS by 54 U.S.C. 100101(a) and 54 U.S.C. 100751(a). Moreover, 54 U.S.C. 100752 authorizes management actions directed at plants that the NPS has determined are "detrimental" to the use of a particular park area. Those management actions are often intended to eradicate plant species that are exotic or otherwise inimical to a park area. The tribal gathering authorized by this rule is not directed at "detrimental" plants. In any event, because of the requirements and safeguards built into this rule, the tribal gathering authorized by it will never result in the destruction or eradication of any plant species in a park area.

Finally, some comments stated that the Food, Conservation, and Energy Act of 2008 (Farm Bill) suggests that Congress must grant the NPS specific statutory authority to allow tribes to gather plants in NPS areas. The Farm Bill authorizes the U.S. Forest Service (USFS) to provide trees, portions of trees, or forest products from lands administered by the USFS to Indian tribes free of charge for noncommercial traditional and cultural purposes (25 U.S.C. 3055). As explained above, the NPS believes that the NPS Organic Act already grants it the discretionary authority to allow the limited consumptive use of plants or plant parts authorized by this rule.

In the proposed rule the NPS requested comment about how the NPS and the USFS can coordinate their separate processes for requesting approval to remove natural products from their adjacent lands. Some comments encouraged the NPS to adopt the USFS rule rather than create a rule specific to NPS areas. This the NPS may not do. The NPS and the USFS operate under significantly different statutory regimes. As a result, the gathering and removal of plants or plant parts from NPS lands must be governed by regulations and policies different from the regulations and policies that will govern the removal of trees, portions of trees, or forest products from adjacent USFS lands. Therefore, it is not possible for the NPS to simply adopt the USFS rule. Although the NPS will encourage its park managers to coordinate informally with the managers of nearby USFS lands to eliminate duplicative requests for information and to more efficiently accommodate tribal requests and concerns, Indian tribes must negotiate a gathering agreement with the NPS in addition to any requirements imposed by the USFS on its adjacent lands.

Compliance With NEPA

2. Comment: Many comments questioned the appropriateness of the NPS using a NEPA categorical exclusion for the promulgation of this rule. Additional comments requested that the NPS prepare a national environmental impact statement to assess the environmental impacts of the rule on all areas of the National Park System. Several comments stated that extraordinary circumstances listed in 43 CFR 46.215 exist and that a categorical exclusion therefore may not be used, per 43 CFR 46.205(c).

NPS Response: The Department of the Interior's regulations implementing NEPA state that regulations whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis, which will later be subject to the NEPA compliance process, are categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. 43 CFR 46.210(i).

The only action occurring at this time is the publication of the rule. The only immediate result of this action will be that Indian tribes may submit to the NPS requests to enter into agreements. The specifics of those agreements and any implementing permits are not known at the time of adoption of the rule. The effects of these future potential actions cannot be analyzed now because they are too broad, speculative, and conjectural to be meaningfully evaluated. They can be evaluated only at the time of the negotiation of a gathering agreement between the NPS and the tribe.

The rule requires that before entering into a gathering agreement with an Indian tribe, the NPS must analyze potential impacts of the proposed gathering and removal under all applicable federal laws, including NEPA, and that the NEPA compliance process must conclude with a finding of no significant impact. All proposed gathering activities in particular park areas or locations will therefore be subjected to analysis through the NEPA compliance process, after the NPS has received enough information about those activities (*e.g.,* Indian tribe, location, duration, plant species, timing) to conduct a meaningful analysis of potential impacts to the environment. This analysis will include impacts, including cumulative impacts, to relevant plant species that are gathered illegally in some park areas (such as ramps and ginseng, where appropriate). Any gathering activities that would cause a significant impact may not be authorized. The NPS accordingly expects that parks will not prepare any environmental impact statements under this rule.

The NPS has reviewed the extraordinary circumstances listed in 43 CFR 46.215 and has confirmed that none apply to this action.

Tribal Consultation Process

3. Comment: Several comments questioned whether the NPS adequately consulted with tribes prior to the publication of the proposed rule, and some comments requested the NPS redo consultation with all individual tribes with face-to-face meetings.

NPS Response: The NPS held six consultation meetings across the country to discuss the proposed rule. All federally recognized tribes located in the 48 contiguous states received invitations to attend one or more of these meetings. NPS staff in Alaska conducted consultation with tribal entities who requested it, and a telephone conference was requested and held. Any gathering agreements developed as a result of this rule will be established after consultation between the specific tribe and NPS staff at the relevant park. The NPS believes it has met its consultation requirements under Executive Order 13175 and the Department of Interior Consultation Policy and does not plan to hold any additional consultation meetings regarding the promulgation of this rule.

4. Comment: Many comments called for a more explicit statement of when and with whom consultation should occur before entering into a gathering agreement, and periodically during the term of the agreement.

NPS Response: Language has been added to the rule requiring park Superintendents to engage in a consultation process with any tribe requesting a gathering agreement both before finalizing the details of the agreement and during periodic reviews of the status of the gathering activities under the agreement. The number of meetings and length of the initial consultation process will vary by park and local circumstances, but park Superintendents will undertake the NPS consultation process with tribes as the mechanism for creating the agreements. This includes consultation with any tribes that have gathering rights under treaty that may be impacted by an agreement with another tribe. It is possible that periodic consultation will be called for and necessary during the life of the agreements, not just for their creation. It is also expected that consultation will be required for the periodic review of the gathering activity results and analysis of impacts. The gathering agreements should stipulate when such consultation will occur, while leaving open the possibility of additional ad hoc consultation as necessary.

Process for Authorizing Gathering Activities

5. Comment: Many comments noted that the process for requesting and entering into an agreement is burdensome to tribes. Some tribes noted they will need to negotiate and execute different agreements with different park areas. Other comments called for the process to be simplified, such as allowing any member of a tribe with a valid agreement to gather plants rather than requiring the tribes to provide the names of specific tribal members who may gather within the park. One comment noted that the process will be harder on smaller tribes with less staff to work on the process.

NPS Response: As explained in more detail above, the process for requesting and entering into a gathering agreement ensures that the gathering activities do not result in unacceptable impacts to park resources, particularly plants. Formal requests for gathering agreements, the terms of each gathering agreement, the environmental analyses required for each agreement, and the terms and conditions of each special use permit must be tailored to the unique biological conditions, resources, values, and enabling legislation for each park area. Requiring the permits to identify the members who are designated by the tribe to gather plants will allow the NPS to verify that a person gathering plants within the park is authorized to conduct that activity.

6. Comment: A number of comments suggested that the tribes, not the NPS, should permit plant gatherers and manage the process of gathering plants within park areas.

NPS Response: Congress delegated management responsibility for the National Park System to the NPS. Only the NPS has the legal authority to issue discretionary special use permits to authorize the gathering of plants or plant parts in areas of the National Park System. This rule does not apply to situations where a tribe has a legal right to gather plants or plant parts in the park area under a treaty or federal statute.

7. Comment: A number of comments stated that the overall process from initial request to permitting of gatherers is antithetical to traditional plant gathering practices, which is conducted primarily in private or with families and is based upon traditional knowledge that is not necessarily in written form or derived through a formal process that requires the submission of paperwork and formal determinations.

NPS Response: The rule establishes a fair and transparent process to allow plant gathering that requires deliberation, defines key terms and common language, and identifies actions that must be taken before gathering activities can occur. Although the process in this rule may run counter to traditional methods of gathering, the NPS believes the steps required by this rule are necessary to safeguard plant communities and the larger biological communities and processes, consistent with the NPS's statutory mandates to conserve the resources and values of the National Park System. The NPS believes that the documentation required by this rule will best ensure that impacts to park resources or values have been objectively and rigorously considered and that gathering activities comply with the terms and conditions agreed upon by the NPS and the tribes.

8. Comment: A number of comments suggested there should be a time limit for the NPS to answer a tribal request for a gathering agreement.

NPS Response: The NPS agrees there should be a time limit for an initial response from the park Superintendent, but the NPS also needs adequate time to review the merits of a request. The NPS has added a 90-day limit for a park Superintendent to initially respond to a tribe's request to enter into a plant gathering agreement. The time needed to enter into the agreement will not be subject to a deadline and will vary based on negotiations between the tribe and the NPS, and will be influenced by the resources, values, and other circumstances present at the park. The NPS believes that requiring a set amount of time for finalizing any agreement would be detrimental to the government-to-government consultation process, which should be given the time necessary to reach a conclusion.

9. Comment: A number of comments noted there was no conflict resolution or alternative dispute resolution section in the rule and that there should be some means for tribes to appeal NPS decisions.

NPS Response: The NPS has added an appeal process to the rule. If a Superintendent denies a tribe's request for a gathering agreement, then the Superintendent will provide the tribe with a written decision setting forth the reasons for the denial. The tribe may appeal the Superintendent's written decision to the NPS Regional Director within 60 days after receiving it. The appeal should set forth in writing the basis for the tribe's disagreement with the Superintendent's decision. Within 45 days after receipt of the tribe's written appeal, the Regional Director will affirm, reverse, or modify the Superintendent's decision, explaining the reasons for the appeal decision in writing, and promptly send a copy of the decision to the tribe. The Regional Director's appeal decision will constitute the NPS's final agency decision on the matter.

10. Comment: A number of comments asked who will monitor plant gathering and some suggested that tribes monitor plant gathering.

NPS Response: The rule requires that all gathering agreements contain protocols for monitoring gathering and removal activities, and thresholds above which NPS or tribal management intervention will occur. The NPS has on-going inventorying and monitoring projects for vascular plants in most park areas. Additionally, the NPS or other federal agencies may be monitoring federally threatened and endangered species in certain park areas. Tribes may request to join the NPS's efforts to monitor any effects of gathering of plant species on NPS-administered lands. Joint monitoring work will be agreed upon in the gathering agreement and may also be included in the terms and conditions of a special use permit.

11. Comment: Many tribes questioned the ability of the NPS to protect confidential information about who does the gathering and where the gathering occurs within a park area. These comments were based on a desire to prevent unauthorized people from collecting plants or plant parts and to protect the privacy of qualified plant gatherers as they participate in ceremonies associated with plant gathering.

NPS Response: During the process of consulting with tribes in order to enter into gathering agreements and to issue permits for gathering activities, the NPS may obtain information that the tribes consider sensitive or confidential, including the identity of tribal members who are authorized to gather plants or plant parts. As part of these consultations, the NPS will discuss ways to limit the scope of such information to the extent possible and to avoid releasing such information to the extent permitted by applicable laws. For example, in some circumstances NPS may be able to use identifiers other than personal names to designate tribal members who are authorized to gather plants or plant parts. To the extent permitted by applicable law, including 54 U.S.C. 100707, the Archaeological Resources Protection Act, and the NHPA, the NPS will withhold from public disclosure information about the specific location, character, and nature of resources on park lands.

12. Comment: Several comments felt that too much discretion is vested in the park Superintendent. For example, the rule states the Superintendent "may" negotiate and enter into an agreement with a tribe. The rule also allows the Superintendent to determine and document, based on information provided by the Indian tribe or others, that the Indian tribe has a traditional association with the park area, and that the Indian tribe is proposing to gather and remove plants or plant parts in the park area for a traditional purpose.

NPS Response: The discretionary authority granted to Superintendents recognizes that they are subject-matter experts regarding management of the park area and and have been delegated responsibility to take action and respond to changing circumstances that may affect the values and resources of a park area. The discretion granted to Superintendents is consistent with long-established discretionary authority granted to Superintendents in other sections of 36 CFR to make management decisions for NPS areas based upon a variety of criteria. The rule also requires Superintendents to obtain the written concurrence of the Regional Director to any agreement before it goes into effect. When reviewing formal requests for agreements and when determining whether the criteria have been met to enter into an agreement, Superintendents consult with the tribe and rely upon information provided by the tribe, as well as input and advice from NPS staff with subject matter expertise.

Superintendents will use all relevant forms of evidence made available to them to make a decision on traditional association, including oral history and evidence from the Indian Claims Commission.

13. Comment: Some comments requested that the Regional Director's role in agreements be circumscribed, while others requested the Regional Director's role be expanded in decision making.

NPS Response: NPS Regional Directors supervise park Superintendents. Requiring the Regional Director to concur before any agreement is signed ensures an important layer of review of decisions made by Superintendents that will help ensure that decision-making criteria are applied consistently across the regions of the National Park System. Regional Directors have regional staff that can assist park staff with the work required to negotiate gathering agreements and issue permits. The proposed rule required the Superintendent to obtain the Regional Director's written concurrence before issuing or terminating a permit. The NPS has removed this requirement in the final rule to allow Superintendents and Regional Directors to determine what type of permit review process is most appropriate for a particular park and region. The rule still requires the Regional Director to concur with all gathering agreements. Superintendents may not issue permits that authorize activities that exceed the scope of activities agreed to by the Regional Director in the gathering agreement.

14. Comment: A few comments asked the NPS to clarify the type of agreement that will be used, while others suggested the use of a Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA).

NPS Response: Section 5.2.2 of the Management Policies directs the NPS to establish mutually beneficial agreements with interested groups to facilitate consultation and cooperative management approaches with respect to culturally important natural resources. The goal of such agreements is to allow traditionally associated peoples, such as tribes eligible to negotiate gathering agreements under this rule, to exercise traditional cultural practices in parks to the extent those practices are allowable by law, are appropriate uses for the park area, and will not cause unacceptable impacts or impairment.

The selection of a specific type of agreement depends upon what is agreed upon between the NPS and the tribe. For example, depending on the details of the arrangement, the NPS may use a memorandum of understanding, a memorandum of agreement, or a general agreement to document its relationship and agreement with the tribe. The type of agreement for plant gathering is best left to the consultation and negotiation process rather than specified in the rule.

15. Comment: A few comments believe the rule is too rigid and will preclude "opportunistic" plant gathering when a gatherer sees a plant they did not anticipate.

NPS Response: As explained in more detail above, the process for requesting and entering into a gathering agreement, and the requirement to obtain a permit for gathering activities, exist to ensure that the gathering activities do not result in unacceptable impacts to park resources, particularly plants. Opportunistic or spontaneous gathering of plants not identified in the gathering agreement and permit issued by the NPS will not be allowed. Tribal members may gather only plants or plant parts identified in the gathering agreement and permit, subject to the terms and conditions listed in the permit. An agreement and permit may be amended, however, to include additional plant species as explained in the response to the following comment.

16. Comment: A few comments asked if a gathering agreement could be amended at a later date.

NPS Response: An agreement may be amended if the proposed change is mutually agreed upon by the NPS and the tribe, concurred with by the Regional Director, and formally executed either as an amendment to the existing agreement or as an entirely new agreement. Adjustments to gathering activities that are consistent with an existing agreement will not require a new agreement and may be included in the terms and conditions of the special use permit issued by the NPS. Amendments or adjustments to gathering activities that are not within the scope of environmental impacts analyzed under NEPA when the original agreement was executed must be subject to additional environmental review prior to taking effect.

17. Comment: A number of comments suggested that all agreements should have a clause prohibiting the gathering of species listed as threatened or endangered under the ESA.

NPS Response: The NPS agrees and has modified the rule to require all agreements to prohibit the gathering of any species listed as threatened or endangered under the ESA. In addition the required environmental assessment should analyze whether to prohibit gathering activities in critical habitat for any species designated under the ESA and analyze any other plant species of special concern. The NPS will engage in consultation under Section 7 of the ESA if the environmental analyses required before entering into a gathering agreement identify potential adverse effects upon listed species or critical habitat.

Commercial Use of Gathered Plants and Plant Parts

18. Comment: A number of comments objected to the prohibition against any commercial use of plants or plant parts gathered under this rule. Comments generally agreed that there should be no sale of raw plants or plant parts. However, they requested that the NPS reconsider the use of limited quantities of plants and plant parts in the manufacture of traditional American Indian handicrafts.

NPS Response: The rule requires that gathering agreements contain a statement that the sale or commercial use of natural products is prohibited under existing NPS regulations at 36 CFR 2.1(c)(3)(v). This prohibition applies, like other NPS regulations, to activities occurring within the boundaries of areas of the National Park System, as described in 36 CFR 1.2. The NPS acknowledges that some tribal members may wish to use plants or plant parts gathered under this rule to make and sell traditional handicrafts such as baskets outside of the park area. This limited commercial use of plants or plant parts gathered in park areas may help tribes maintain traditional cultural practices, which is a primary purpose of this rule. Accordingly, this rule does not purport to regulate or prohibit this activity. The NPS will continuously monitor the impact of plant gathering on park resources and values and will adjust, through the permitting process, the quantity of plants or plant parts that may be gathered by tribal members in the park. If the use of plants or plant parts gathered in the park to make and sell traditional handicrafts begins to have an impact on park resources or values, then the NPS will curtail the authorized gathering activities accordingly.

Treaty Rights

19. Comment: Several comments referred to the possible abrogation or diminishment of, or infringement upon, existing treaty rights held by tribes to gather plants within NPS areas. Some comments identified concerns that plant gathering by members of a tribe operating under an agreement would negatively impact the ability of other tribes to exercise treaty rights to gather the same plant species.

NPS Response: This rule does not purport to abrogate, diminish, or regulate the exercise of treaty rights held by federally recognized Indian tribes, including any rights to gather plants or plant parts in NPS-administered park areas.

If the NPS determines that it is not sustainable to allow gathering under an agreement provided for in this rule and under a treaty, the rights to gather under treaty will take precedence over gathering under an agreement. It is possible that limits will need to be placed on gathering a particular plant species under an agreement to ensure that the activity is conducted in a sustainable manner. If the environmental analysis conducted prior to finalizing an agreement indicates that limits need to be stipulated, these limits will be included in the gathering agreement. If subsequent monitoring indicates an adverse impact to the species warranting additional limits, then the agreement can be amended to include those limits, or the additional limits can be placed in the permits issued for gathering activities. The rule also gives the Superintendent the authority to close park areas, or portions thereof, to gathering and removing plant species that are subject to gathering under an agreement and permit, in order to protect natural resources.

Tribal Self-Governance Act

20. Comment: A few comments asked if the Tribal Self Governance Act could be employed to manage the plant gathering agreement at a park or as a method to substitute for the permit process.

NPS Response: Title II of the Indian Self-Determination Act Amendments of 1994 (Pub. L. 103–413, the "Tribal Self-Governance Act") instituted a permanent self-governance program at the Department of the Interior. Under the self-governance program, certain programs, services, functions, and activities, or portions thereof, in Interior bureaus other than the Bureau Indian Affairs are eligible to be planned, conducted, consolidated, and administered by a tribe that has an executed self-governance compact with the Federal government. Under section 403(k) of the Tribal Self-Governance Act, funding agreements may not include programs, services, functions, or activities that are inherently federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe. The NPS believes that assessing the impacts of the gathering of plants or plant parts on park resources and values, negotiating an agreement with a tribe to gather plants or plant parts within a park area, and monitoring the impacts of the authorized gathering activities on park resources and values are inherently federal functions that are not eligible for inclusion in a self-governance funding agreement.

National Historic Preservation Act and Traditional Cultural Properties

21. Comment: A number of comments noted there is a relationship between plant gathering areas in park areas and areas for which a Traditional Cultural Property (TCP) nomination would be appropriate or may already exist.

NPS Response: A TCP is a natural resource or area eligible for nomination to the National Register of Historic Properties under the NHPA. National Register eligibility criteria are distinct from the considerations and determinations under this rule. While some plant species have enhanced cultural significance because of their specific location, not every plant-gathering location will have enhanced cultural significance simply because the plants are found there. TCPs do not necessarily correlate with plant-gathering locations. The different purposes and eligibility requirements for TCP nominations under the NHPA make using the TCP process an unworkable substitute for the process for authorizing plant gathering under this rule.

Changes in the Final Rule

After taking the public comments into consideration and after additional review, the NPS made the following substantive changes in the final rule:

§ 2.6(a)	Added definitions for "Plants or plant parts" and "Traditional gathering".
§ 2.6(c)(2)	Clarified that after receiving a request that contains the required information, the Superintendent will begin consultation with the requesting tribe in order to develop an agreement and will consult with any other tribe that has gathering rights in that park area.
§ 2.6(c)(2)	Added a requirement that the Superintendent provide an initial response within 90 days after receiving a tribal request to enter into a gathering agreement. If the Superintendent fails to initiate consultation within 90 days, then the tribe may submit the request to the Regional Director.
§§ 2.6(d)(2) and 2.6(d)(3)	Combined these two related paragraphs into a single paragraph and added a requirement that the NPS prepare an environmental assessment and a finding of no significant impact that meets the requirements of NEPA before entering into an agreement to allow traditional gathering and removal.
§ 2.6(d)(4)	Removed a redundant requirement that, before entering into a gathering agreement, the Superintendent must determine that the proposed gathering activities meet the requirements for issuing a permit under 36 CFR 1.6(a). This issue is addressed in paragraph 2.6(f)(2), which requires that permits be issued in accordance with section 36 CFR 1.6.
§ 2.6(f)(1)(v) (§ 2.6(f)(5) in proposed rule).	Added a requirement that all agreements contain language prohibiting the gathering of any species listed as threatened or endangered under the Endangered Species Act.
§ 2.6(f)(1)(xi)	Added a requirement that all agreements require periodic reviews of the status of gathering activities under the agreement.
§ 2.6(f)(1)(xiii)	Added a requirement that a permit issued under a gathering agreement identify the tribal members designated by the tribe to gather plants or plant parts under the permit.
§ 2.6(g)	Removed requirements that the Superintendent must obtain the written concurrence of the Regional Director before issuing a permit.
§ 2.6(k)	Added a new section explaining the right of tribes to appeal decisions made by the Superintendent to the Regional Director.

Section by Section Analysis

Section 2.1(d)—Preservation of Natural, Cultural and Archeological Resources

The rule modifies the existing prohibition in this section on the taking, use, or possession of plants for ceremonial or religious purposes, by adding an exception for the gathering and removal of plants or plant parts by members of a federally-recognized Indian tribe in accordance with the requirements of this rule. The rule does not nullify or abrogate any existing statutory or treaty rights, nor does it affect rules governing the taking of fish or wildlife.

Section 2.6(a)—What terms do I need to know?

This section defines the following terms that are used in the rule: Indian tribe, Plants or plant parts, Traditional association, Traditional purpose, Traditional gathering, and Tribal official. The NPS added a definition to the final rule that defines ''plants or plant parts'' as vascular plants or parts of vascular plants. No other types of plants may be gathered or removed under this rule. The NPS added this definition to clarify that non-vascular plants such as bryophytes (*e.g.* mosses, lichens, and liverworts) and fungi (*e.g.* mushrooms) are not covered under this rule and may not be collected under a gathering agreement. There is limited historical evidence that non-vascular plants were used by tribes for traditional purposes. The primary use of non-vascular plants is commercial.

Section 2.6(b)—How will the Superintendent authorize gathering and removal?

This section provides a summary of the process for authorizing a tribe to gather and remove plants or plant parts in a park area. The rule authorizes agreements to allow and manage tribal gathering and removal of plants or plant parts for traditional purposes in park areas. The agreements will explicitly recognize the special government-to-government relationship between Indian tribes and the United States, and will be based upon mutually agreed upon terms and conditions subject to the requirements of § 2.6(d). The agreements will serve as the framework under which the NPS will allow tribal gathering and removal and will be implemented by an accompanying permit issued by the NPS under § 1.6, which will authorize the gathering and removal activities.

Section 2.6(c)—How must a tribe request to enter into an agreement?

This section explains how a tribe must request a gathering agreement from the NPS. The Superintendent will respond within ninety (90) days to a properly submitted request from the appropriate tribal official expressing interest in entering into an agreement for gathering and removal based on tribal traditional association with the park area, and on the continuation of traditional tribal cultural practices on park land. The tribal request must include a description of the traditional association that the Indian tribe has to the park area, a brief explanation of the traditional purposes to which the gathering and removal activities will relate, and a description of the gathering and removal activities that the Indian tribe is interested in conducting.

Section 2.6(d)—What are the criteria for entering into agreements?

This section identifies criteria that must be met before the NPS will enter into a gathering agreement with a tribe. The rule requires the Superintendent to determine that the Indian tribe has a traditional association with the park area; determine that the Indian tribe is proposing to gather and remove plants or plant parts in the park area for a traditional purpose; analyze potential impacts of the proposed gathering activities under NEPA, NHPA, ESA, and other applicable laws; determine that the proposed gathering and removal activities will not result in a significant adverse impact on park resources or values; and determine that the agreement for the proposed gathering and removal meets the requirements for issuing a permit under 36 CFR 1.6(a).

Section 2.6(e)—When must the Superintendent deny a request to enter into an agreement?

This section explains that the Superintendent must deny a request from a tribe to enter into a gathering agreement if any of the criteria in pararaph (d) cannot be met.

Section 2.6(f)—How will agreements be implemented?

This section explains that gathering agreements, at a minimum, must require that the tribal government identify who within the tribe is designated to gather and remove; how such individuals will be identified; what plants or plant parts may be gathered and removed; and limits on size, quantities, seasons, or locations where the gathering and removal may take place.

Agreements will also establish NPS-tribal protocols for monitoring park resources subject to gathering and removal operating protocols, and remedies for noncompliance in addition to those set out in the rule. In the case of noncompliance by members of the tribe, the NPS will initially apply these agreed-upon remedies and, if warranted, seek prosecution of specific violators, prior to terminating the agreement. This section also provides for any special conditions unique to the park area or tribal tradition that may be included within the scope of existing law. The NPS will authorize the tribe to manage gathering and removal by tribal members, subject to the conditions of the agreement. Gathering agreements will be implemented through a permit issued by the park for the authorized gatherers under 36 CFR 1.6.

Section 2.6(g)—What concurrence must the Superintendent obtain?

This section requires the Regional Director to approve any agreement entered into under the rule.

Section 2.6(h)—When will the Superintendent close areas to gathering and removal?

This section explains the Superintendent's authority to close park areas to gathering and removal, notwithstanding the terms of any agreement or permit executed under this rule. The Superintendent may close a park area to gathering and removal when necessary to maintain public health and safety, protect environmental or scenic values, protect park resources, aid scientific research, implement management responsibilities, equitably allocate the use of facilities, or avoid conflict among visitor use activities. Those criteria are drawn verbatim from the existing NPS regulation authorizing closures generally, 36 CFR 1.5(a). Under that regulation, the Superintendent may close all or a portion of a park area to all public use or to a specific activity or use for one of the enumerated reasons. It is important to note that an order closing a park area to gathering and removal does not suspend, rescind, or otherwise affect the underlying tribal gathering agreement, which remains in effect. Except for emergencies, the Superintendent will provide appropriate public notice of any closures in accordance with 36 CFR 1.7. The Superintendent will also provide written notice of the closure directly to any tribe that has an agreement to gather and remove plants or plant parts from the close area.

Section 2.6(i)—When may an agreement or permit be suspended or terminated?

This section explains when an agreement or permit may be suspended or terminated by the NPS. The rule allows the NPS to suspend or terminate an agreement or permit where terms or conditions are violated or unanticipated or significant adverse impacts occur. The Superintendent must prepare a written determination justifying the action. A termination is subject to the concurrence of the Regional Director. Termination of an agreement or permit will be based on factors such as careful analysis of impacts on park resources and the effectiveness of NPS-tribal agreement administration. The NPS also may address violations of a permit under 36 CFR 1.6(g).

Section 2.6(j)—When is gathering prohibited?

Gathering and removal of plants or plant parts remains prohibited, except as authorized under this rule (including the terms and conditions of an agreement and permit issued under this rule), or as otherwise authorized by federal statute, treaty, or another NPS regulation.

Section 2.6(k)—How may a tribe appeal a decision under this rule?

This section explains that tribes have the right to appeal a decision made by the Superintendent to deny a request for an agreement. Decisions on appeal will be made by the Regional Director pursuant to the procedures in this rule.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the report titled, "Cost-Benefit and Regulatory Flexibility Analyses" available for review at *https://www.nps.gov/tribes/final_rule.htm.*

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based on information from "Cost-Benefit and Regulatory Flexibility Analyses" available for review at *https://www.nps.gov/tribes/final_rule.htm.*

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses use of NPS lands only. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rule only affects use of NPS-administered lands. It has no outside effects on other areas. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175, and have identified direct tribal implications. We have consulted with tribes on a government-to-government basis as explained above in this rule.

Paperwork Reduction Act of 1995

This rule contains a collection of information that the Office of Management and Budget (OMB) has approved under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has assigned OMB Control Number 1024–0271, which expires 07/31/2019. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Title: Gathering of Certain Plants or Plant Parts by Federally Recognized Indian Tribes for Traditional Purposes, 36 CFR 2.

OMB Control Number: 1024–0271.

Service Form Number: None.

Type of Request: New Collection

Description of Respondents: Indian tribes.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Number of Respondents: 30.

Activity	Estimated number of annual responses	Completion time per response (hours)	Estimated total annual burden hours
Initial written request from an Indian tribal official	20	4	80
Agreement with Indian tribe	5	20	100
Appeals	5	10	50
Total	30	....	230

An Indian tribe that has a traditional association with a park area may request that we enter into an agreement with the tribe for gathering and removal from the park area of plants or plant parts for traditional purposes. The agreement will define the terms under which the Indian tribe may be issued permits that will designate the tribal members who may gather and remove plants or plant parts within the park area in accordance with the terms and conditions of the agreement and the permit.

(1) The initial request from an Indian tribe that we enter into an agreement with the tribe for gathering and removal of plants or plant parts for traditional purposes. The request must include the information specified in § 2.6(c).

(2) The agreement, which defines the terms under which the Indian tribe may be issued a permit. To make determinations based upon tribal requests or to enter into an agreement, we may need to collect information from those Indian tribes who make requests and from the specific tribal members. The agreement must contain the information specified in § 2.6(f).

During the final rule stage, we made one change in our information collection requirements. We added a new section on the appeals process, outlining the right of tribes to appeal decisions made by the Superintendent to the Regional Director. Appeals should set forth the substantive factual or legal bases for the tribe's disagreement with the Superintendent's decision and any other information the tribe wishes the Regional Director to consider. During the proposed rule stage, we solicited comments on the information collection requirements. We addressed all comments in the preamble above. A number of comments addressed the issue of the information requested under this rule. These comments fell within three broad categories:

(1) *Is there a basic need for the information?* Some comments questioned why we need to collect the information specified in the gathering rule, suggesting instead that the individual tribes are better suited to identify the people, plants, places, and methods by which plant gathering would take place.

NPS Response: Under the rule, tribes identify the specific details of their proposed plant gathering and provide that information to the Superintendent for consideration. This information is necessary to meet our legislated and regulatory responsibilities to conserve park resources, particularly plants. Because parks have different biological conditions and plants as well as different enabling legislation, the information we collect under this rule is required to develop NEPA environmental documents and to determine whether specific communities of plants or plant parts are healthy enough to be included in a plant gathering agreement.

(2) *Why is there a need for a tribe to provide specific details about the plant gathering?* Some comments called the level of detail required for the agreements "overly burdensome" and raised the question as to whether or not we need to collect: Specific lists of tribal members who would be allowed to collect plants and plant parts, specific lists of the plants targeted for gathering by the tribal members, specific locations

from which the plants would be gathered, specific times where the plant gathering would take place, and specific descriptions of the traditional methods to be used to gather the plants.

NPS Response: We believe the information is necessary to minimize impacts to park resources and values, allow for efficient implementation of agreements, and prevent unauthorized gathering. We believe that this rule is broad enough to allow latitude in the specificity required to create workable agreements between the NPS and traditionally associated tribes. Permits issued under the agreements must list tribal members who will gather plants or plant parts during the time period covered by the permit. Tribal members who are authorized to gather plants are encouraged to have tribal identification cards in their possession during gathering activities. In addition to the permitted tribal members, tribes will need to provide a list of plants or plant parts to be gathered under the agreements, general time frames when the gathering of plants or plant parts would take place, and a general description of the proposed method of gathering so that the NPS can continue to ensure that there will be no significant adverse impacts to park resources. We believe that the categories of information that we will collect are necessary to develop the environmental assessment and finding of no significant impact under NEPA and to determine whether or not the communities of plants or plant parts desired are healthy enough to be included within a plant gathering agreement.

(3) *Can the NPS protect the sensitive information tribes provide about traditional methods of gathering, traditional uses of plants and plant parts, and so forth?* Many tribal respondents questioned our ability to protect confidential information about who does the gathering and plant gathering locations.

NPS Response: See NPS Response to Comment 11 above.

We did not change our information collection requirements based on these comments. The public may comment at any time on the accuracy of the information collection burden in this rule. You may send comments on any aspect of these information collection requirements to the Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (Mail Stop 242), Reston, VA 20192.

National Environmental Policy Act (NEPA)

This rule does not constitute a major federal action significantly affecting the quality of the human environment. A detailed statement under NEPA is not required because the rule is covered by a categorical exclusion. The Department of the Interior Regulations for implementing NEPA at 43 CFR 46.210(i) and the NPS NEPA Handbook at ¶ 3.2(H) allow for the following to be categorically excluded: "policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature; or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA-compliance process, either collectively or case-by-case."

The NPS has determined that the environmental effects of this rule are too broad, speculative, or conjectural for a meaningful analysis. In order to enter into an agreement for gathering of natural products under the rule, the NPS will first need to receive a request from an appropriate tribal official. While there are a number of Indian tribes that may qualify for an agreement under the rule, the NPS can only speculate at this point as to which Indian tribes will request an agreement, which park areas will be affected, and what specific resources specific Indian tribes will request to collect. Because of this, the NPS has explicitly required that it prepare an environmental assessment and a finding of no significant impact that meets the requirements of NEPA for each gathering agreement, on a case-by-case basis. The activities allowed by the permit must fall within the scope of activities agreed upon in the gathering agreement. As a result, no collection of plants or plant parts will occur under this rule until after a site-specific NEPA analysis is completed.

The NPS has also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Drafting Information

The primary authors of the proposed rule were Patricia L. Parker, Ph.D., Chief, American Indian Liaison Office; Frederick F. York, Ph.D., Regional Anthropologist, Pacific West Region; and Philip Selleck, Associate Regional Director for Operations, National Capital Region. The primary authors of the final rule were Joe Watkins, Ph.D., Chief, American Indian Liaison Office; Michael J. Evans, Ph.D., Chief, Cultural Anthropology/Ethnography, Midwest Region; Timothy Cochrane, Ph.D., Superintendent, Grand Portage National Monument; and Dr. Meredith Hardy, Archeologist, Southeast Archeological Center.

List of Subjects in 36 CFR Part 2

National parks, Native Americans, Natural resources.

For the reasons given in the preamble, the National Park Service amends 36 CFR part 2 as follows:

PART 2—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

■ 1. The authority citation for Part 2 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102.

■ 2. In § 2.1, revise paragraph (d) to read as follows:

§ 2.1 Preservation of natural, cultural and archeological resources.

* * * * *

(d) This section shall not be construed as authorizing the taking, use, or possession of fish, wildlife, or plants for ceremonial or religious purposes, except for the gathering and removal of plants or plant parts by enrolled members of an Indian tribe in accordance with § 2.6, or where specifically authorized by federal statutory law, treaty, or in accordance with § 2.2 or § 2.3.

* * * * *

■ 3. Add § 2.6 to read as follows:

§ 2.6 Gathering of plants or plant parts by federally recognized Indian tribes.

(a) *What terms do I need to know?* The following definitions apply only to this section.

Indian tribe means an American Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe under the Federally Recognized Tribe List Act of 1994, 25 U.S.C. 479a.

Plants or plant parts means vascular plants or parts of vascular plants. No other types of plants may be gathered or removed under this section.

Traditional association means a longstanding relationship of historical or cultural significance between an Indian tribe and a park area predating the establishment of the park area.

Traditional gathering means the method of gathering plants or plant parts by hand or hand tools only. Traditional gathering does not include the use of tools or machinery powered by electricity, fossil fuels, or any other source of power except human power.

Traditional purpose means a customary activity or practice that is rooted in the history of an Indian tribe and is important to the continuation of that tribe's distinct culture.

Tribal official means an elected or duly appointed official of the federally recognized government of an Indian tribe authorized to act on behalf of the tribe with respect to the subject matter of this regulation.

(b) *How may the Superintendent authorize traditional gathering and removal?* After receiving a request from an Indian tribe to gather plants or plant parts within a park area, the Superintendent may enter into an agreement with the tribe to authorize the traditional gathering and removal of plants or plant parts for traditional purposes. The agreement will describe the terms and conditions under which the Superintendent may issue a gathering permit to the tribe under § 1.6 of this chapter. The permit will designate the enrolled tribal members who are authorized to gather and remove plants or plant parts within the park area.

(c) *How must a tribe request to enter into an agreement?* (1) A tribal official must submit to the Superintendent a written request to enter into an agreement under this section that contains the following:

(i) A description of the Indian tribe's traditional association to the park area;

(ii) A description of the traditional purposes to which the traditional gathering activities will relate; and

(iii) A description of the traditional gathering and removal activities that the tribe is interested in conducting, including a list of the plants or plant parts that tribal members wish to gather and the methods by which those plants or plant parts will be gathered.

(2) Within 90 days after receiving a request that contains the information required by paragraph (c)(1) of this section, the Superintendent will initiate consultation with the requesting tribe in order to develop an agreement. If a Superintendent fails to initiate consultation within 90 days after receiving such a request, then the tribe may submit the request to the Regional Director. The Superintendent will also consult with any other tribe that has gathering rights in that park area under a treaty or federal statute or is party to a valid plant-gathering agreement with the NPS for that park area.

(d) *What are the requirements for entering into agreements?* Before entering into an agreement to allow gathering and removal, the Superintendent must:

(1) Determine, based on available information, including information provided by the tribe itself, that the tribe has a traditional association with the park area and is proposing to gather and remove plants or plant parts within the park area for a traditional purpose; and

(2) Comply with all applicable federal laws, including the National Environmental Policy Act of 1969, the National Historic Preservation Act, and the Endangered Species Act. The compliance for the National Environmental Policy Act of 1969 must consist of an environmental assessment and must conclude with a finding of no significant impact, which must also document the determinations required by paragraph (d)(1) of this section. The Superintendent may not enter into an agreement that will have a significant adverse impact on park area resources or values.

(e) *When must the Superintendent deny a tribe's request to enter into a gathering agreement?* The Superintendent must deny a tribe's request to enter into a gathering agreement if any of the requirements of paragraph (d) of this section are not satisfied.

(f) *What must agreements contain and how will they be implemented?* (1) An agreement to gather and remove plants or plant parts must contain the following:

(i) The name of the Indian tribe authorized to gather and remove plants and plant parts;

(ii) The basis for the tribe's eligibility under paragraphs (c)(1)(i) and (ii) of this section to enter into the agreement;

(iii) A description of the system to be used to administer traditional gathering and removal, including a clear means of identifying the enrolled tribal members who, under the permit, are designated by the Indian tribe to gather and remove;

(iv) A means for the tribal government to keep the NPS regularly informed of which enrolled tribal members are designated by the tribe to gather and remove;

(v) A description of the specific plants or plant parts that may be gathered and removed. The gathering agreement may not authorize the gathering of any species listed as threatened or endangered under the Endangered Species Act;

(vi) Specification of the size and quantity of the plants or plant parts that may be gathered and removed;

(vii) Identification of the times and locations at which the plants or plant parts may be gathered and removed;

(viii) A statement that plants or plant parts may be gathered only by traditional gathering methods, *i.e.,* only by hand or hand tools;

(ix) A statement that the sale or commercial use of natural products (including plants or plant parts gathered under the agreement) is prohibited in the park area under § 2.1(c)(3)(v);

(x) Protocols for monitoring traditional gathering and removal activities and thresholds above which NPS and tribal management intervention will occur;

(xi) A requirement that the NPS and the tribe engage in periodic reviews of the status of traditional gathering activities under the agreement through consultation;

(xii) Operating protocols and additional remedies for non-compliance with the terms of the agreement beyond those provided in this section, including mitigation, restoration, and remediation;

(xiii) A requirement that a permit issued under the agreement identify the tribal members who are designated by the tribe to gather plants or plant parts under the permit;

(xiv) A list of key officials; and

(xv) Any additional terms or conditions that the parties may agree upon.

(2) Agreements will be implemented through a permit issued in accordance with § 1.6 of this chapter. Activities allowed by a permit must fall within the scope of activities agreed upon in the agreement.

(g) *What concurrence must the Superintendent obtain?* Before executing any gathering agreement, the Superintendent must obtain the written concurrence of the Regional Director.

(h) *When may the Superintendent close areas to gathering and removal?* (1) Notwithstanding the terms of any agreement or permit executed under this section, the Superintendent may close park areas, or portions thereof, to the traditional gathering and removal of plants or plant products for any of the following reasons:

(i) Maintenance of public health and safety;

(ii) Protection of environmental or scenic values;

(iii) Protection of natural or cultural resources;

(iv) Aid to scientific research;

(v) Implementation of management plans; or

(vi) Avoidance of conflict among visitor use activities.

(2) Closed areas may not be reopened to traditional gathering and removal until the reasons for the closure have been resolved.

(3) Except in emergency situations, the Superintendent will provide public notice of any closure under this section in accordance with § 1.7 of this chapter. The Superintendent will also provide written notice of the closure directly to any tribe that has an agreement to gather and remove plants or plant parts from the closed area.

(i) *When may the Superintendent suspend or terminate an agreement or permit?*

(1) The Superintendent may suspend or terminate a gathering agreement or implementing permit if the tribe or a tribal member violates any term or condition of the agreement or the permit.

(2) The Superintendent may suspend or terminate a gathering agreement or implementing permit if unanticipated or significant adverse impacts to park area resources or values occur.

(3) If a Superintendent suspends or terminates a gathering agreement or implementing permit, then the Superintendent must prepare a written determination justifying the action and must provide a copy of the determination to the tribe.

(4) Before terminating a gathering agreement or implementing permit, the Superintendent must obtain the written concurrence of the Regional Director.

(j) *When is gathering prohibited?* Gathering, possession, or removal from a park area of plants or plant parts (including for traditional purposes) is prohibited except where specifically authorized by:

(1) Federal statutory law;

(2) Treaty rights;

(3) Other regulations of this chapter; or

(4) An agreement and permit issued under this section.

(k) *How may a tribe appeal a Superintendent's decision not to enter into a gathering agreement under this rule?* If a Superintendent denies a tribe's request to enter into a gathering agreement, then the Superintendent will provide the tribe with a written decision setting forth the reasons for the denial. Within 60 days after receiving the Superintendent's written decision, the tribe may appeal, in writing, the Superintendent's decision to the Regional Director. The appeal should set forth the substantive factual or legal bases for the tribe's disagreement with the Superintendent's decision and any other information the tribe wishes the Regional Director to consider. Within 45 days after receiving the tribe's written appeal, the Regional Director will issue and send to the tribe a written decision that affirms, reverses, or modifies the Superintendent's decision. The Regional Director's appeal decision will constitute the final agency action on the matter. Appeals under this section constitute an administrative review and are not conducted as an adjudicative proceeding.

(l) *Have the information collection requirements been approved?* The Office of Management and Budget has reviewed and approved the information collection requirements in this section and assigned OMB Control No. 1024–0271. We will use this information to determine whether a traditional association and purpose can be documented in order to authorize traditional gathering. We may not conduct or sponsor and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. You may send comments on any aspect of this information collection to the Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (Mail Stop 242), Reston, VA 20192.

Karen Hyun,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–16434 Filed 7–11–16; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2014–0464; FRL–9948–87–OAR]

Air Quality Designations for the 2010 Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard—Round 2

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes the initial air quality designations for certain areas in the United States (U.S.) for the 2010 primary sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS). The Environmental Protection Agency (EPA) is designating the areas as either nonattainment, unclassifiable/attainment, or unclassifiable, based on whether the areas do not meet the NAAQS or contribute to a nearby area that does not meet the NAAQS; meet the NAAQS; or cannot be classified on the basis of available information as meeting or not meeting the NAAQS, respectively. The designations are based on the weight of evidence for each area, including available air quality monitoring data and air quality modeling. The Clean Air Act (CAA) directs areas designated nonattainment by this rule to undertake certain planning and pollution control activities to attain the SO_2 NAAQS as expeditiously as practicable. This is the second round of area designations for the 2010 SO_2 NAAQS.

DATES: The effective date of this rule is September 12, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID NO. EPA–HQ–OAR–2014–0464. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov.*

In addition, the EPA has established a Web site for the initial SO_2 designations rulemakings at: *https://www.epa.gov/sulfur-dioxide-designations.* The Web site includes the EPA's final SO_2 designations, as well as state and tribal initial recommendation letters, the EPA's modification letters, technical support documents, responses to comments and other related technical information.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Rhea Jones, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Planning Division, C539–04, Research Triangle Park, NC 27711, telephone (919) 541–2940, email at *jones.rhea@epa.gov.*

SUPPLEMENTARY INFORMATION:

U.S. EPA Regional Office Contacts:

Region I—Leiran Biton, telephone (617) 918–1267, email at *biton.leiran@epa.gov.*

Region II—Henry Feingersh, telephone (212) 637–3382, email at *feingersh.henry@epa.gov.*

Region III—Irene Shandruk, telephone (215) 814–2166, email at *shandruk.irene@epa.gov.*

Region IV—Twunjala Bradley, telephone (404) 562–9352, email at *bradley.twunjala@epa.gov.*

Region V—John Summerhays, telephone (312) 886–6067, email at *summerhays.john@epa.gov.*

Region VI—Dayana Medina, telephone (214) 665–7241, email at *medina.dayana@epa.gov.*

Region VII—David Peter, telephone (913) 551–7397, email at *peter.david@epa.gov.*

Region VIII—Adam Clark, telephone (303) 312–7104, email at *clark.adam@epa.gov.*

Region IX—Gwen Yoshimura, telephone (415) 947–4134, email at *yoshimura.gwen@epa.gov.*

Region X—John Chi, U.S. EPA, telephone (206) 553–1185, email at *chi.john@epa.gov.*

The public may inspect the rule and state-specific technical support information at the following locations:

Regional offices	States
Dave Conroy, Chief, Air Programs Branch, EPA New England, 1 Congress Street, Suite 1100, Boston, MA 02114–2023, (617) 918–1661.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.
Richard Ruvo, Chief, Air Planning Section, EPA Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–4014.	New Jersey, New York, Puerto Rico and Virgin Islands.
Cristina Fernandez, Associate Director, Office of Air Program Planning, EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2187, (215) 814–2178.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.
R. Scott Davis, Chief, Air Planning Branch, EPA Region IV, Sam Nunn Atlanta Federal Center, 61 Forsyth, Street, SW, 12th Floor, Atlanta, GA 30303, (404) 562–9127.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.
John Mooney, Chief, Air Programs Branch, EPA Region V, 77 West Jackson Street, Chicago, IL 60604, (312) 886–6043.	Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.
Guy Donaldson, Chief, Air Planning Section, EPA Region VI, 1445 Ross Avenue, Dallas, TX 75202, (214) 665–7242.	Arkansas, Louisiana, New Mexico, Oklahoma and Texas.
Mike Jay, Chief, Air Programs Branch, EPA Region VII, 11201 Renner Blvd., Lenexa, KS 66129, (913) 551–7460.	Iowa, Kansas, Missouri and Nebraska.
Monica Morales, Acting Air Program Director, EPA Region VIII, 1595 Wynkoop Street, Denver, CO 80202–1129, (303) 312–6936.	Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.
Doris Lo, Air Planning Office, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3959.	American Samoa, Arizona, California, Guam, Hawaii, Nevada and Northern Mariana Islands.
Debra Suzuki, Manager, State and Tribal Air Programs, EPA Region X, Office of Air, Waste, and Toxics, Mail Code OAQ–107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–0985.	Alaska, Idaho, Oregon and Washington.

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I. Preamble Glossary of Terms and Acronyms

The following are abbreviations of terms used in the preamble.

APA	Administrative Procedure Act
CAA	Clean Air Act
CFR	Code of Federal Regulations
DC	District of Columbia
EO	Executive Order
EPA	Environmental Protection Agency
FR	Federal Register
NAAQS	National Ambient Air Quality Standards
NTTAA	National Technology Transfer and Advancement Act
OMB	Office of Management and Budget
SO_2	Sulfur Dioxide
SO_X	Sulfur Oxides
RFA	Regulatory Flexibility Act
UMRA	Unfunded Mandate Reform Act of 1995
TAR	Tribal Authority Rule
TAD	Technical Assistance Document
TSD	Technical Support Document
U.S.	United States
VCS	Voluntary Consensus Standards

II. What is the purpose of this action?

The purpose of this final action is to announce and promulgate initial air quality designations for certain areas in the U.S. for the 2010 primary SO_2 NAAQS, in accordance with the requirements of the CAA. The EPA is designating areas as either nonattainment, unclassifiable/attainment, or unclassifiable, based on whether the areas do not meet the NAAQS or contribute to a nearby area that does not meet the NAAQS; meet the NAAQS; or cannot be classified on the basis of available information as meeting or not meeting the NAAQS, respectively. This is the second round of designations for the 2010 SO_2 NAAQS. As discussed in Section IV of this document, the EPA is designating SO_2 areas in multiple rounds. The EPA completed the first round of SO_2 designations in an action signed by the Administrator on July 25, 2013 (78 FR 47191; August 5, 2013). In that action, the EPA designated 29 areas in 16 states as nonattainment, based on air quality monitoring data.

In this second round of SO_2 designations, the EPA is designating 61 additional areas in 24 states: 4 nonattainment areas, 41 unclassifiable/attainment areas and 16 unclassifiable areas. The list of areas being designated in the affected states and the boundaries of each area appear in the tables for each state within the regulatory text at the end of this document. These designations are based on the EPA's technical assessment of and conclusions regarding the weight of evidence for each area, including but not limited to available air quality monitoring data or air quality modeling. With respect to air quality monitoring data, the EPA considered data from at least the most recent three calendar years 2013–2015, as available, including an evaluation of exceptional event claims.[1] In most of the modeling runs conducted by states or third parties, the impacts of the actual emissions for the 3-year periods 2012–2014 or 2013–2015 were considered, and in some cases modeling evaluated recent or not-yet-effective allowable emissions limits in lieu of or as a supplement to modeling of actual emissions. For the areas being designated nonattainment, the CAA directs states to develop and submit to the EPA State Implementation Plans within 18 months of the effective date of this final rule, that meet the requirements of sections 172(c) and 191–192 of the CAA and provide for attainment of the NAAQS as expeditiously as practicable, but not later than 5 years from the effective date of this final rule. We also note that under EPA's Data Requirements Rule in 40 CFR part 51, subpart BB (80 FR 51052; August 21, 2015), the EPA expects to receive additional air quality characterization for many of the sources located in areas subject to this round of designations, and the agency could consider such data that corresponds to those areas designated unclassifiable in this round in future actions that assess the areas' air quality status.

III. What is the 2010 SO_2 NAAQS and what are the health concerns that it addresses?

The Administrator signed a final rule revising the primary SO_2 NAAQS on June 2, 2010. The rule was published in the **Federal Register** on June 22, 2010 (75 FR 35520) and became effective on August 23, 2010. Based on the Administrator's review of the air quality criteria for oxides of sulfur and the primary NAAQS for oxides of sulfur as measured by SO_2, the EPA revised the primary SO_2 NAAQS to provide requisite protection of public health with an adequate margin of safety. Specifically, the EPA established a new 1-hour SO_2 standard at a level of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with Appendix T of 40 CFR part 50. 40 CFR 50.17(a)–(b). The EPA also established provisions to revoke both the existing 24-hour and annual primary SO_2 standards, subject to certain conditions. 40 CFR 50.4(e).

Current scientific evidence links short-term exposures to SO_2, ranging from 5 minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms. These effects are particularly important for asthmatics at elevated ventilation rates (*e.g.,* while exercising or playing). Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly and asthmatics.

The EPA's NAAQS for SO_2 is designed to protect against exposure to the entire group of sulfur oxides (SO_X). SO_2 is the component of greatest concern and is used as the indicator for the larger group of gaseous SO_X. Other gaseous SO_X (*e.g.,* SO_3) are found in the atmosphere at concentrations much lower than SO_2.

Emissions that lead to high concentrations of SO_2 generally also lead to the formation of other SO_X. Control measures that reduce SO_2 can generally be expected to reduce people's exposures to all gaseous SO_X. This may also have the important co-benefit of reducing the formation of fine sulfate particles, which pose significant public health threats. SO_X can react with other compounds in the atmosphere to form small particles. These particles penetrate deeply into sensitive parts of the lungs and can cause or worsen respiratory disease, such as emphysema and bronchitis, and can aggravate existing heart disease, leading to increased hospital admissions and premature death.[2] The EPA's NAAQS for particulate matter are designed to provide protection against these health effects.

IV. What are the CAA requirements for air quality designations and what action has the EPA taken to meet these requirements?

After the EPA promulgates a new or revised NAAQS, the EPA is required to designate all areas of the country as either "nonattainment," "attainment,"[3] or "unclassifiable," for that NAAQS pursuant to section 107(d)(1) of the CAA. Section 107(d)(1)(A)(i) of the CAA defines a nonattainment area as "any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant." If an area meets either prong of this definition, then the EPA is obligated to designate the area as "nonattainment." This provision also defines an attainment area as any area other than a nonattainment area that meets the NAAQS and an unclassifiable area as any area that cannot be classified on the basis of available information as meeting or not meeting the NAAQS.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d) of the CAA. The CAA requires the EPA to complete the initial designations process within 2 years of promulgating a new or revised standard. If the Administrator has insufficient information to make these designations by that deadline, the EPA has the authority to extend the deadline for completing designations by up to 1 year. On July 27, 2012, the EPA announced that it had insufficient information to complete the designations for the 1-hour SO_2 standard within 2 years and extended the designations deadline to June 3, 2013 (77 FR 46295; August 3, 2012).

By no later than 1 year after the promulgation of a new or revised NAAQS, CAA section 107(d)(1)(A) provides that each state governor is required to recommend air quality designations, including the appropriate boundaries for areas, to the EPA. The EPA reviews those state recommendations and is authorized to make any modifications the Administrator deems necessary. The statute does not define the term "necessary," but the EPA interprets this to authorize the Administrator to modify designations that did not meet the statutory requirements or were otherwise inconsistent with the facts or analysis deemed appropriate by the EPA. If the EPA is considering modifications to a state's initial recommendation, the EPA is required to notify the state of any such intended modifications to its recommendation not less than 120 days prior to the EPA's promulgation of the final designation. These notifications are commonly known as the "120-day letters." During this period, if the state does not agree with the EPA's modification, it has an opportunity to respond to the EPA and to demonstrate why it believes the modification proposed by the EPA is inappropriate. If a state fails to provide any recommendation for an area, in whole or in part, the EPA still must promulgate a designation that the Administrator deems appropriate, pursuant to CAA section 107(d)(1)(B)(ii). While CAA section 107(d) specifically addresses the designations process between the EPA and states, the EPA intends to follow the same process to the extent practicable for tribes that choose to make designation recommendations. If a tribe does not provide designation recommendations, the EPA will promulgate the designations that the Administrator deems appropriate.

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[1] Exceptional event claims influenced the EPA's designation for an area in Hawaii. The CAA and the EPA's implementing regulations allow for the exclusion of air quality monitoring data from use in regulatory determinations when there are exceedances and/or violations caused by events that satisfy the criteria within the Exceptional Events Rule codified at 40 CFR 50.1, 50.14 and 51.930. The exclusion of event-influenced data from the data set that is used to calculate design values could result in regulatory relief from an initial area designation as nonattainment. The design value used to determine the unclassifiable/attainment area designation for Hawaii County, Hawaii reflects the EPA's concurrence on multiple exceptional events claims influencing monitored concentrations at monitors in Hawaii County, Hawaii.

[2] *See* Fact Sheet titled, "Revisions to the Primary National Ambient Air Quality Standard, Monitoring Network, and Data Reporting Requirements for Sulfur Dioxide" at *http://www3.epa.gov/airquality/sulfurdioxide/pdfs/20100602fs.pdf.*

[3] Consistent with designations for other pollutants, the EPA is using the designation category of "unclassifiable/attainment" for areas where appropriate air quality data demonstrate attainment (for SO_2 this can be through monitoring and/or modeling) and for areas for which such data are not available but for which the EPA has reason to believe the areas are likely attainment and have not been determined to be contributing to nearby violations.

The EPA notes that CAA section 107(d) provides the agency with discretion to determine how best to interpret the terms in the definition of a nonattainment area (*e.g.*, "contributes to" and "nearby") for a new or revised NAAQS, given considerations such as the nature of a specific pollutant, the types of sources that may contribute to violations, the form of the standards for the pollutant, and other relevant information. In particular, the EPA's position is that the statute does not require the agency to establish bright line tests or thresholds for what constitutes "contribution" or "nearby" for purposes of designations.[4]

Similarly, the EPA's position is that the statute permits the EPA to evaluate the appropriate application of the term "area" to include geographic areas based upon full or partial county boundaries, as may be appropriate for a particular NAAQS. For example, CAA section 107(d)(1)(B)(ii) explicitly provides that the EPA can make modifications to designation recommendations for an area "or portions thereof," and under CAA section 107(d)(1)(B)(iv) a designation remains in effect for an area "or portion thereof" until the EPA redesignates it.

For the 2010 SO_2 NAAQS, designation recommendations were due to the EPA by June 3, 2011. Designation recommendations and supporting documentation were submitted by most states and several tribes to the EPA by that date. After receiving these recommendations, and after reviewing and evaluating each recommendation, the EPA provided responses to the states and tribes regarding certain areas on February 7, 2013. The state and tribal letters, including the initial recommendations, the EPA's February 2013 responses to those letters, any modifications, and the subsequent state comment letters, are in the separate docket for that first round of SO_2 designations, at Docket ID NO. EPA–HQ–OAR–2012–0233.

Although not required by section 107(d) of the CAA, the EPA also provided an opportunity for members of the public to comment on the EPA's February 2013 response letters. The EPA completed the first round of SO_2 designations on July 25, 2013, designating 29 areas in 16 states as nonattainment (78 FR 47191; August 5, 2013). In the preamble to that action, the EPA stated that in separate future actions, it intended to address designations for all other areas for which the agency was not yet prepared to issue designations and that were consequently not addressed in that final rule. With input from a diverse group of stakeholders, EPA developed a comprehensive implementation strategy for the future SO_2 designations actions that focuses resources on identifying and addressing unhealthy levels of SO_2 in areas where people are most likely to be exposed to violations of the standard.

Following the initial August 5, 2013, designations, three lawsuits were filed against the EPA in different U.S. District Courts, alleging the agency had failed to perform a nondiscretionary duty under the CAA by not designating all portions of the country by the June 2, 2013, deadline. In an effort intended to resolve the litigation in one of those cases, the EPA and the plaintiffs, Sierra Club and the Natural Resources Defense Council, filed a proposed consent decree with the U.S. District Court for the Northern District of California. On March 2, 2015, the court entered the consent decree and issued an enforceable order for the EPA to complete the area designations by three specific deadlines according to the court-ordered schedule.

According to the court-ordered schedule, the EPA must complete this second round of SO_2 designations by no later than July 2, 2016 (16 months from the court's order). The court order specifies that in this round the EPA must designate two groups of areas: (1) Areas that have newly monitored violations of the 2010 SO_2 NAAQS and (2) areas that contain any stationary sources that had not been announced as of March 2, 2015, for retirement and that, according to the EPA's Air Markets Database, emitted in 2012 either (i) more than 16,000 tons of SO_2, or (ii) more than 2,600 tons of SO_2 with an annual average emission rate of at least 0.45 pounds of SO_2 per one million British thermal units (lbs SO_2/mmBTU). Specifically, a stationary source with a coal-fired electric generating unit that, as of January 1, 2010, had a capacity of over 5 megawatts and otherwise meets the emissions criteria, is excluded from the July 2, 2016, deadline if it had announced through a company public announcement, public utilities commission filing, consent decree, public legal settlement, final state or federal permit filing, or other similar means of communication, by March 2, 2015, that it will cease burning coal at that unit.

The last two court-ordered deadlines for completing remaining designations are December 31, 2017 (Round 3), and December 31, 2020 (Round 4). In Round 3, the EPA must designate any remaining undesignated areas, for which, by January 1, 2017, states have not installed and begun operating a new SO_2 monitoring network meeting the EPA's specifications referenced in the then-anticipated SO_2 Data Requirements Rule. By December 31, 2020, the EPA must designate all remaining areas. The EPA finalized the SO_2 Data Requirements Rule (DRR) on August 10, 2015, codified at 40 CFR part 51, subpart BB (80 FR 51052; August 21, 2015). The rule establishes requirements for state and other air agencies to provide additional monitoring or modeling information on a timetable consistent with these designation deadlines. We expect this additional information to become available in time to help inform these subsequent designations.

On March 20, 2015, the EPA sent letters to Governors notifying them of the March 2, 2015, court order and identifying any sources in their states meeting the criteria for the round of designations to be completed by July 2, 2016. The EPA offered states the opportunity to submit updated recommendations and supporting information for the EPA to consider for the affected areas. The EPA also notified states that the agency had updated its March 24, 2011, SO_2 designations guidance to support analysis of designations and boundaries for the next rounds of designations. All of the states with affected areas submitted updated designation recommendations. For areas of Indian county, there were no violating monitors and no sources meeting the criteria for the designations to be completed by July 2, 2016. However, the EPA also sent letters to Tribal Leaders where the EPA had identified a state source that met the criteria in the court order and that could potentially be impacting the tribal land. The EPA also offered tribes the opportunity to submit information or a recommendation for the potentially affected areas of tribal land. No tribes submitted information or recommendations for this round of designations.

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[4] This view was confirmed in *Catawba County* v. *EPA*, 571 F.3d 20 (D.C. Cir. 2009).

On or about February 16, 2016, the EPA notified 24 affected states of its intended designation of certain specific areas as either nonattainment, unclassifiable/attainment, or unclassifiable for the SO_2 NAAQS. These states then had the opportunity to demonstrate why they believed an intended modification of their updated recommendations by the EPA may be inappropriate. Although not required, as the EPA had done for the first round of SO_2 designations, the EPA also chose to provide an opportunity for members of the public to comment on the EPA's February 2016 response letters. The EPA published a notice of availability and public comment period for the intended designation on March 1, 2016 (81 FR 10563). The public comment period closed on March 31, 2016. The updated recommendations, the EPA's February 2016 responses to those letters, any modifications, and the subsequent state and public comment letters, are in the docket for this second round of SO_2 designations at Docket ID NO. EPA–HQ–OAR–2014–0464 and are available on the SO_2 designations Web site.

V. What guidance did the EPA issue and how did the EPA apply the statutory requirements and applicable guidance to determine area designations and boundaries?

In the notice of proposed rulemaking for the revised SO_2 NAAQS (74 FR 64810; December 8, 2009), the EPA issued proposed guidance on its approach to implementing the standard, including its approach to initial area designations. The EPA solicited comment on that guidance and, in the notice of final rulemaking (75 FR 35520; June 22, 2010), provided further guidance concerning implementation of the standard and how to identify nonattainment areas and boundaries for the SO_2 NAAQS. Subsequently, on March 24, 2011, the EPA provided additional designations guidance to assist states with making their recommendations for area designations and boundaries.[5] That guidance recommended, among other things, that monitoring data from the most recent three consecutive years be used to identify a violation of the SO_2 NAAQS. This is appropriate because the form of the SO_2 NAAQS is calculated as a 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum SO_2 concentrations (specifically the most recent 3 consecutive years). The EPA based the first round of final SO_2 designations on monitored SO_2 concentrations from Federal Reference Method and Federal Equivalent Method monitors that are sited and operated in accordance with 40 CFR parts 50 and 58.

In the March 24, 2011, guidance, the EPA stated that the perimeter of a county containing a violating monitor would be the initial presumptive boundary for nonattainment areas, but also stated that the state, tribe and/or the EPA could conduct additional area-specific analyses that could justify establishing either a larger or smaller area. The EPA indicated that the following factors should be considered in an analysis of whether to exclude portions of a county and whether to include additional nearby areas outside the county as part of the designated nonattainment area: (1) Air quality data; (2) emissions-related data; (3) meteorology; (4) geography/topography; and (5) jurisdictional boundaries, as well as other available data. States and tribes may identify and evaluate other relevant factors or circumstances specific to a particular area.

Following entry of the March 2, 2015, court order, updated designations guidance was issued by the EPA through a March 20, 2015, memorandum from Stephen D. Page, Director, U.S. EPA, Office of Air Quality Planning and Standards, to Air Division Directors, U.S. EPA Regions 1–10. This memorandum supersedes the March 24, 2011, designation guidance for the 2010 SO_2 NAAQS, and identifies factors that the EPA intends to evaluate in determining whether areas are in violation of the 2010 SO_2 NAAQS. The guidance also contains the factors the EPA intends to evaluate in determining the boundaries for all remaining areas in the country, consistent with the court's order and schedule. These factors include: (1) Air quality characterization via ambient monitoring or dispersion modeling results; (2) emissions-related data; (3) meteorology; (4) geography and topography; and (5) jurisdictional boundaries. This guidance was supplemented by two non-binding technical assistance documents intended to assist states and other interested parties in their efforts to characterize air quality through air dispersion modeling or ambient air quality monitoring for sources that emit SO_2. Notably, the EPA's documents titled, "SO_2 NAAQS Designations Modeling Technical Assistance Document" (Modeling TAD) and "SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document" (Monitoring TAD), were first made available to states and other interested parties in spring of 2013. Both of these documents were most recently updated in February 2016 and are available at *https://www.epa.gov/sulfur-dioxide-designations.*

VI. What air quality information has the EPA used for these designations?

For designations for the SO_2 NAAQS, air agencies have the flexibility to characterize air quality using either appropriately sited ambient air quality monitors or modeling of actual or allowable source emissions. The EPA issued the non-binding draft Monitoring TAD and Modeling TAD recommending how air agencies should conduct such monitoring or modeling. For the SO_2 designations contained in this action, the EPA considered available air quality monitoring data from at least calendar years 2013–2015, including an evaluation of exceptional events claims, and modeling submitted by state air agencies and other parties. In most of the modeling runs, the impacts of the actual emissions for the 3-year periods 2012–2014 or 2013–2015 were considered, and in some cases modeling evaluated recent or not-yet-effective allowable emissions limits in lieu of or as a supplement to modeling of actual emissions. The 1-hour primary SO_2 standard is violated at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. For this round of designations there were no areas designated nonattainment based on monitoring data showing violations of the NAAQS. To determine model-based violations, the EPA believes that dispersion modeling is an appropriate tool, as discussed in the Modeling TAD. The TAD provides recommendations on how an air agency might appropriately and sufficiently model ambient air in proximity to an SO_2 emission source to establish air quality data for comparison to the 2010 primary SO_2 NAAQS for the purposes of designations.

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[5] *See,* "Area Designations for the 2010 Revised Primary Sulfur Dioxide National Ambient Air Quality Standards," memorandum to Regional Air Division Directors, Regions I–X, from Stephen D. Page, dated March 24, 2011.

VII. How do the Round 2 designations affect Indian country?

In Round 2 of the designations for the 2010 primary SO_2 NAAQS, the EPA is designating 61 state areas as either nonattainment, unclassifiable/attainment, or unclassifiable. For areas of Indian county, there were no violating monitors and no sources meeting the criteria for the designations to be completed by July 2, 2016. No areas of Indian country are being designated as nonattainment as part of this round. Any Indian country located in areas being designated as unclassifiable/attainment or unclassifiable are being designated along with the surrounding state area. All remaining state areas and areas of Indian country will be addressed in subsequent rounds of SO_2 designations.

VIII. Where can I find information forming the basis for this rule and exchanges between the EPA, states and tribes related to this rule?

Information providing the basis for this action are provided in several technical support documents (TSDs), a response to comments document (RTC) and other information in the docket. The TSDs, RTC, applicable EPA's guidance memoranda and copies of correspondence regarding this process between the EPA and the states, tribes and other parties, are available for review at the EPA Docket Center listed above in the **ADDRESSES** section of this document and on the agency's SO_2 Designations Web site at *https://www.epa.gov/sulfur-dioxide-designations.* Area-specific questions can be addressed to the EPA Regional Offices (*see* contact information provided at the beginning of this document).

IX. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable.

This final action addresses designation determinations for certain areas for the 2010 primary SO_2 NAAQS. Area designations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

X. Statutory and Executive Order Reviews

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate areas as attaining or not attaining the NAAQS. The CAA then specifies requirements for areas based on whether such areas are attaining or not attaining the NAAQS. In this final rule, the EPA assigns designations to selected areas as required.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempted from review from the Office of Management and Budget because it responds to the CAA requirement to promulgate air quality designations after promulgation of a new or revised NAAQS.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action responds to the requirement to promulgate air quality designations after promulgation of a new or revised NAAQS. This requirement is prescribed in the CAA section 107 of title 1. This action does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

This final rule is not subject to the RFA. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule is not subject to notice-and-comment requirements under the APA but is subject to the CAA section 107(d)(2)(B) which does not require a notice-and-comment rulemaking to take this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandates as described by URM, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This final action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action concerns the designation of certain areas in the U.S. for the 2010 primary SO_2 NAAQS. The CAA provides for states and eligible tribes to develop plans to regulate emissions of air pollutants within their areas, as necessary, based on the designations. The Tribal Authority Rule (TAR) provides tribes the opportunity to apply for eligibility to develop and implement CAA programs, such as programs to attain and maintain the SO_2 NAAQS, but it leaves to the discretion of the tribe the decision of whether to apply to develop these programs and which programs, or appropriate elements of a program, the tribe will seek to adopt. This rule does not have a substantial direct effect on one or more Indian tribes. It does not create any additional requirements beyond those of the SO_2 NAAQS. This rule establishes the designations for certain areas of the country for the SO_2 NAAQS, but no areas of Indian country are being designated as nonattainment by this action. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the TAR establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply.

Although Executive Order 13175 does not apply to this rule, after the EPA promulgated the 2010 primary SO_2 NAAQS, the EPA communicated with tribal leaders and environmental staff regarding the designations process. The EPA also sent individualized letters to all federally recognized tribes to explain the designation process for the 2010 primary SO_2 NAAQS, to provide the EPA designations guidance, and to offer consultation with the EPA. The EPA provided further information to tribes through presentations at the National Tribal Forum and through participation in National Tribal Air Association conference calls. The EPA also sent individualized letters to all federally recognized tribes that submitted recommendations to the EPA about the EPA's intended designations for the SO_2 standard and offered tribal leaders the opportunity for consultation. These communications provided opportunities for tribes to voice concerns to the EPA about the general designations process for the 2010 primary SO_2 NAAQS, as well as concerns specific to a tribe, and informed the EPA about key tribal concerns regarding designations as the rule was under development. For this second round of SO_2 designations, the EPA sent additional letters to tribes that could potentially be affected and offered additional opportunities for participation in the designations process. The communication letters to the tribes are provided in the dockets for Round 1 (Docket ID NO. EPA–HQ–OAR–2012–0233 and Round 2 (Docket ID NO. EPA–HQ–OAR–2014–0464).

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and or indigenous peoples, as specified Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this decision is contained in Section IX of this document.

K. Congressional Review Act (CRA)

The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the U.S. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the U.S. prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective September 12, 2016.

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of "nationally applicable regulations promulgated, or final actions taken, by the Administrator," or (ii) when such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

This final action designating areas for the 2010 primary SO_2 NAAQS is "nationally applicable" within the meaning of section 307(b)(1). This final action establishes designations for areas across the U.S. for the 2010 primary SO_2 NAAQS. At the core of this final action is the EPA's interpretation of the definitions of nonattainment, attainment and unclassifiable under section 107(d)(1) of the CAA, and its application of that interpretation to areas across the country. Accordingly, the Administrator has determined that this final action is nationally applicable and is hereby publishing that finding in the **Federal Register**.

For the same reasons, the Administrator also is determining that the final designations are of nationwide scope and effect for the purposes of section 307(b)(1). This is particularly appropriate because, in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of "nationwide scope or effect" would be appropriate for any action that has a scope or effect beyond a single judicial circuit. H.R. Rep. No. 95–294 at 323, 324, *reprinted* in 1977 U.S.C.C.A.N. 1402–03. Here, the scope and effect of this final action extends to numerous judicial circuits since the designations apply to areas across the country. In these circumstances, section 307(b)(1) and its legislative history calls for the Administrator to find the action to be of "nationwide scope or effect" and for venue to be in the D.C. Circuit. Therefore, this final action is based on a determination by the Administrator of nationwide scope or effect, and the Administrator is hereby publishing that finding in the **Federal Register**.

Thus, any petitions for review of these final designations must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 30, 2016.

Gina McCarthy,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 81 is amended as follows:

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart C—Section 107 Attainment Status Designations

■ 2. Section 81.304 is amended by adding a new table entitled "Arkansas—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Arkansas—1971

Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.304 Arkansas.

* * * * *

ARKANSAS—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Independence County, AR [1]	9/12/16	Unclassifiable.
Independence County.		
Jefferson County, AR [2]	9/12/16	Unclassifiable/Attainment.
Jefferson County.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.
[2] Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 3. Section 81.306 is amended by adding a new table entitled "Colorado—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Colorado—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Colorado Springs, CO [1]	9/12/16	Unclassifiable.
El Paso County (part).		
Manitou Springs.		
Colorado Springs (and certain unincorporated areas) as follows; Areas east of the western city limits of Colorado Springs, north of the southern city limits of Colorado Springs with the addition of the area termed "Stratmoor" bounded on the south by South Academy Boulevard, west of Powers Blvd, and south of East Woodman Blvd (east of Academy Blvd. N.) and the northern city limits of Colorado Springs (west of Academy Blvd. N.).		
Eastern Morgan County, CO [1]	9/12/16	Unclassifiable.
Morgan County (part).		
Circle with a 12 kilometer radius centered on the Pawnee Power Plant.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

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■ 4. Section 81.311 is amended by adding a new table entitled "Georgia—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Georgia—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.311 Georgia.

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GEORGIA—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Juliette, GA [1]	9/12/16	Unclassifiable/Attainment.
Butts County.		
Crawford County.		
Jasper County.		
Jones County.		
Lamar County.		
Monroe County.		
Upson County.		

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 5. Section 81.312 is amended by adding a new table entitled "Hawaii—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Hawaii—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.312 Hawaii.

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HAWAII—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Hawaii County, HI [1] Hawaii County.	9/12/16	Unclassifiable/Attainment.

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 6. Section 81.314 is amended by revising the table entitled "Illinois—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.314 Illinois.

* * * * *

ILLINOIS—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Alton Township, IL [1] Madison County (part). Within Alton Township: Area east of Corporal Belchik Memorial Expressway, south of East Broadway, south of Route 3, and north of Route 143.	9/12/16	Nonattainment.
Lemont, IL[1] Cook County (part). Lemont Township. Will County (part). DuPage Township and Lockport Township.	10/4/13	Nonattainment.
Pekin, IL [1] Tazewell County (part). Cincinnati Township and Pekin Township. Peoria County (part). Hollis Township.	10/4/13	Nonattainment.
Williamson County, IL [1] Williamson County.	9/12/16	Nonattainment.
Jasper County, IL [2] Jasper County.	9/12/16	Unclassifiable/Attainment.
Massac County, IL [2] Massac County.	9/12/16	Unclassifiable/Attainment.
Putnam/Bureau Counties, IL [2] Bureau County. Putnam County.	9/12/16	Unclassifiable/Attainment.
Wood River Township, IL [1] Madison County (part). All of Wood River Township, and the area in Chouteau Township north of Cahokia Diversion Channel.	9/12/16	Unclassifiable/Attainment.

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 7. Section 81.315 is amended by revising the table entitled "Indiana—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Indianapolis, IN [1] Marion County (part). Wayne Township, Center Township, Perry Township.	10/4/13	Nonattainment.
Morgan County, IN [1] Morgan County (part). Clay Township, Washington Township.	10/4/13	Nonattainment.
Southwest Indiana, IN [1] Daviess County (part).	10/4/13	Nonattainment.

Indiana—2010 Sulfur Dioxide NAAQS—Continued

[Primary]

Designated area	Designation	
	Date	Type
Veale Township.		
Pike County (part).		
Washington Township.		
Terre Haute, IN [1]	10/4/13	Nonattainment.
Vigo County (part).		
Fayette Township, Harrison Township.		
Gibson County, IN [2]	9/12/16	Unclassifiable/attainment.
Gibson County.		
Jefferson County, IN [2]	9/12/16	Unclassifiable/attainment.
Jefferson County (part).		
Graham, Lancaster, Madison, Monroe, Republican, Shelby, and Smyrna Townships.		
LaPorte County, IN [2]	9/12/16	Unclassifiable/attainment.
LaPorte County.		
Posey County, IN [2]	9/12/16	Unclassifiable/attainment.
Posey County (part).		
Bethel, Center, Harmony, Lynn, Marrs, Robb, Robinson, and Smith Townships.		
Spencer County, IN [2]	9/12/16	Unclassifiable/attainment.
Spencer County (part).		
Ohio Township north of UTM 4187.580 km northing, and Carter, Clay, Grass, Hammond, Harrison, and Jackson Townships.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 8. Section 81.316 is amended by revising the table entitled "Iowa—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.316 Iowa.

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Iowa—2010 Sulfur Dioxide NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Muscatine, IA [1]	10/4/13	Nonattainment.
Muscatine County (part).		
Sections 1–3, 10–15, 22–27, 34–36 of T77N, R3W (Lake Township).		
Sections 1–3, 10–15, 22–27, 34–36 of T76N, R3W (Seventy-six Township).		
T77N, R2W (Bloomington Township).		
T76N, R2W (Fruitland Township).		
All sections except 1, 12, 13, 24, 25, 36 of T77N, R1W (Sweetland Township).		
Woodbury County, IA [1]	9/12/16	Unclassifiable.
Woodbury County.		
Des Moines County, IA [2]	9/12/16	Unclassifiable/Attainment.
Des Moines County.		
Wapello County, IA [2]	9/12/16	Unclassifiable/Attainment.
Wapello County.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 9. Section 81.317 is amended by adding a new table entitled "Kansas—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Kansas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.317 Kansas.

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Kansas—2010 Sulfur Dioxide NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Shawnee County, KS [1]	9/12/16	Unclassifiable.
Shawnee County.		

KANSAS—2010 SULFUR DIOXIDE NAAQS—Continued
[Primary]

Designated area	Designation	
	Date	Type
Wyandotte County, KS[1] Wyandotte County.	9/12/16	Unclassifiable.
Linn County, KS[2] Linn County.	9/12/16	Unclassifiable/Attainment.

[1] Excludes Indian country located in each area, if any, unless otherwise specified.
[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 10. Section 81.318 is amended by revising the table entitled "Kentucky—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.318 Kentucky.

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KENTUCKY—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Campbell-Clermont Counties, KY–OH[1] Campbell County (part). That portion of Campbell County which lies south and west of the Ohio River described as follows: Beginning at geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983) on the edge of the Ohio River running southwesterly to KY Highway 1566; thence continuing running southwesterly along KY Highway 1566 to KY Highway 9 (AA Highway); thence running north westerly along KY Highway 9 (AA Highway) from Hwy 1566 to Interstate 275; thence running northeasterly along Interstate 275 to Highway 2345 (John's Hill Road), Hwy 2345 to US–27, US–27 to I–275, I–275 to the Ohio River; thence running southeasterly along the Ohio River from Interstate 275 to geographic coordinates 38.9735 North Latitude, 84.3017 West Longitude (NAD 1983).	10/4/13	Nonattainment.
Jefferson County, KY[1] Jefferson County (part). That portion of Jefferson County compassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 16 with datum NAD83 as follows: (1) Ethan Allen Way extended to the Ohio River at UTM Easting (m) 595738, UTM Northing 4214086 and Dixie Highway (US60 and US31W) at UTM Easting (m) 59751, UTM Northing 4212946; (2): Along Dixie Highway from UTM Easting (m) 597515, UTM Northing 4212946 to UTM Easting (m) 595859, UTM Northing 4210678; (3): Near the adjacent property lines of Louisville Gas and Electric—Mill Creek Electric Generating Station and Kosmos Cement where they join Dixie Highway at UTM Easting (m) 595859, UTM Northing 4210678 and the Ohio River at UTM Easting (m) 595326, UTM Northing 4211014; (4): Along the Ohio River from UTM Easting (m) 595326, UTM Northing 4211014 to UTM Easting (m) 595738, UTM Northing 4214086.	10/4/13	Nonattainment.
Ohio County, KY[1] Ohio County.	9/12/16	Unclassifiable.
Pulaski County, KY[1] Pulaski County.	9/12/16	Unclassifiable.

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

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■ 11. Section 81.319 is amended by revising the table entitled "Louisiana—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.319 Louisiana.

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LOUISIANA—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area	Designation	
	Date	Type
St. Bernard Parish, LA[1] St. Bernard Parish.	10/4/13	Nonattainment.

LOUISIANA—2010 SULFUR DIOXIDE NAAQS—Continued

[Primary]

Designated area	Designation	
	Date	Type
Calcasieu Parish, LA[1]	9/12/16	Unclassifiable.
Calcasieu Parish.		
De Soto Parish, LA[2]	9/12/16	Unclassifiable/Attainment.
De Soto Parish.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 12. Section 81.321 is amended by adding the table entitled "Maryland—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Maryland—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.321 Maryland.

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MARYLAND—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Anne Arundel County and Baltimore County, MD[1]	9/12/16	Nonattainment.
Anne Arundel County (part).		
Portions of Anne Arundel County that are within 26.8 kilometers of Herbert A. Wagner's Unit 3 stack, which is located at 39.17765 N. latitude, 76.52752 W. longitude.		
Baltimore County (part).		
Portions of Baltimore County that are within 26.8 kilometers of Herbert A. Wagner's Unit 3 stack, which is located at 39.17765 N. latitude, 76.52752 W. longitude.		
Baltimore City, MD[2]	9/12/16	Unclassifiable/Attainment.

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 13. Section 81.323 is amended by revising the table entitled "Michigan—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.323 Michigan.

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MICHIGAN—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Detroit, MI[1]	10/4/13	Nonattainment.
Wayne County (part).		
The area bounded on the east by the Michigan-Ontario border, on the south by the Wayne County-Monroe County border, on the west by Interstate 75 north to Southfield Road, Southfield Road to Interstate 94, and Interstate 94 north to Michigan Avenue, and on the north by Michigan Avenue to Woodward Avenue and a line on Woodward Avenue extended to the Michigan-Ontario border.		
St. Clair, MI[1]	9/12/16	Nonattainment.
St. Clair County (part).		
Area defined by the St. Clair River for the eastern boundary, an extension from the St. Clair River straight west to the intersection of State Highway M–29 and St. Clair River Drive, continuing west on State Highway M–29 to Church Road to Arnold Road to County Line Road for the southern boundary, County Line Road and the Macomb/St. Clair County boundary to Stoddard Road to Wales Ridge Road for the western boundary, and Alpine Road to Fitz Road to Smith Creek Road to Range Road to Huron Avenue, extending straight east from the intersection of Huron Road and River Road to the St. Clair River for the northern boundary.		
Bay County, MI[2]	9/12/16	Unclassifiable/Attainment.
Bay County.		
Lansing, MI[2]	9/12/16	Unclassifiable/Attainment.
Eaton County.		
Ingham County.		
Marquette County, MI[2]	9/12/16	Unclassifiable/Attainment.

MICHIGAN—2010 SULFUR DIOXIDE NAAQS—Continued

[Primary]

Designated area	Designation	
	Date	Type
Marquette County.		
Monroe County, MI[2] Monroe County.	9/12/16	Unclassifiable/Attainment.
Ottawa County, MI[2] Ottawa County.	9/12/16	Unclassifiable/Attainment.

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

* * * * *

■ 14. Section 81.325 is amended by adding a new table entitled "Mississippi—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Mississippi—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.325 Mississippi.

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MISSISSIPPI—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Lamar County, MS[1] Lamar County.	9/12/16	Unclassifiable/Attainment.

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 15. Section 81.326 is amended by revising the table entitled "Missouri—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.326 Missouri.

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MISSOURI—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Jackson County, MO[1] Jackson County (part). The portion of Jackson County bounded by I–70/I–670 and the Missouri River to the north; and, to the west of I–435 to the state line separating Missouri and Kansas.	10/4/13	Nonattainment.
Jefferson County, MO[1] Jefferson County (part). That portion within Jefferson County described by connecting the following four sets of UTM coordinates moving in a clockwise manner: (Herculaneum USGS Quadrangle), 718360.283 4250477.056, 729301.869 4250718.415, 729704.134 4236840.30, 718762.547 4236558.715. (Festus USGS Quadrangle), 718762.547 4236558.715, 729704.134 4236840.30, 730066.171 4223042.637, 719124.585 4222680.6. (Selma USGS Quadrangle), 729704.134 4236840.30, 730428.209 4236840.3, 741047.984 4223283.996, 730066.171 4223042.637. (Valmeyer USGS Quadrangle), 729301.869 4250718.415, 731474.096 4250798.868, 730428.209 4236840.3, 729704.134 4236840.30.	10/4/13	Nonattainment.
Franklin-St. Charles Counties, MO[1] Franklin County (part). The eastern and western boundaries are Boles Township boundaries. The northern boundary is the Franklin County-St. Charles County Line. The southern boundary is Interstate 44. St. Charles County (part). The eastern and western boundaries are Boone Township boundaries. The northern boundary is Missouri Route D and Highway 94. The southern boundary is the Franklin County-St. Charles County Line.	9/12/16	Unclassifiable.
Jackson County, MO[1] Jackson County (part).	9/12/16	Unclassifiable.

MISSOURI—2010 SULFUR DIOXIDE NAAQS—Continued

[Primary]

Designated area	Designation	
	Date	Type
The northern boundary is the county line separating Jackson County from Clay and Ray Counties. The eastern boundary is the county line separating Jackson County from Lafayette County. The southern boundary is Interstates 70 and 470. The western boundary is Missouri Highway 291.		
Scott County, MO[2]	9/12/16	Unclassifiable/Attainment.
Scott County.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 16. Section 81.328 is amended by adding a new table entitled "Nebraska—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Nebraska—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.328 Nebraska.

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NEBRASKA—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated Area	Designation	
	Date	Type
Lancaster County, NE[1]	9/12/16	Unclassifiable.
Lancaster County.		
Lincoln County, NE[2]	9/12/16	Unclassifiable/Attainment.
Lincoln County.		
Otoe County, NE[2]	9/12/16	Unclassifiable/Attainment.
Otoe County.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 17. Section 81.333 is amended by adding a new table entitled "New York—2010 Sulfur Dioxide NAAQS (Primary)" following the table "New York—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.333 New York.

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NEW YORK—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Erie-Niagara, NY[1]	9/12/16	Unclassifiable/Attainment.
Erie County.		
Niagara County.		

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 18. Section 81.334 is amended by adding a new table entitled "North Carolina—2010 Sulfur Dioxide NAAQS (Primary)" following the table "North Carolina—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.334 North Carolina.

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NORTH CAROLINA—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated Area	Designation	
	Date	Type
Brunswick County, NC[1]	9/12/16	Unclassifiable.
Brunswick County.		

NORTH CAROLINA—2010 SULFUR DIOXIDE NAAQS—Continued

[Primary]

Designated Area	Designation	
	Date	Type
Lockwood Folly Township, Northwest Township, Shallotte Township. Smithville Township, Town Creek Township, Waccamaw Township.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

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■ 19. Section 81.335 is amended by adding a new table entitled "North Dakota—2010 Sulfur Dioxide NAAQS (Primary)" following the table "North Dakota—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.335 North Dakota.

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NORTH DAKOTA—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated Area	Designation	
	Date	Type
McLean County/Eastern Mercer County, ND[1]	9/12/16	Unclassifiable/Attainment.
McLean County.		
Mercer County (part).		
Area east of CR–37/ND 31, east/north of ND 200 ALT, west of the eastern border of Mercer County/Missouri River, south of the Knife River National Historic Site..		
Central Mercer County, ND[1]	9/12/16	Unclassifiable/Attainment.
Mercer County (part).		
Area west of ND 49/61st Ave SW, north of Co. Rd 15/17th St. SW., east of Co. Rd 13, south and east of the town Zap, south of 8th St. SW./ND 200.		

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 20. Section 81.336 is amended by revising the table entitled "Ohio—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.336 Ohio.

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OHIO—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated Area	Designation	
	Date	Type
Campbell-Clermont Counties, KY–OH[1]	10/4/13	Nonattainment.
Clermont County (part).		
Pierce Township.		
Lake County, OH[1]	10/4/13	Nonattainment.
Lake County.		
Muskingum River, OH[1]	10/4/13	Nonattainment.
Morgan County (part).		
Center Township.		
Washington County (part).		
Waterford Township.		
Steubenville, OH–WV[1]	10/4/13	Nonattainment.
Jefferson County (part).		
Cross Creek Township, Steubenville Township, Warren Township, Wells Township, Steubenville City.		
Gallia County, OH[1]	9/12/16	Unclassifiable.
Gallia County.		
Miegs County (part).		
Bedford, Columbia, Rutland, Salem, Salisbury, and Scipio Townships.		
Clermont County, Ohio[2]	9/12/16	Unclassifiable/Attainment.
Clermont County (part).		
Clermont County excluding Pierce Township.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 21. Section 81.337 is amended by adding a new table entitled "Oklahoma—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Oklahoma—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.337 Oklahoma.

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Oklahoma—2010 Sulfur Dioxide NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Choctaw County, OK[1] ... Choctaw County.	9/12/16	Unclassifiable/Attainment.
Noble County, OK[1] ... Noble County.	9/12/16	Unclassifiable/Attainment.

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 22. Section 81.342 is amended by adding a new table entitled "South Dakota—2010 Sulfur Dioxide NAAQS (Primary)" following the table "South Dakota—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.342 South Dakota.

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South Dakota—2010 Sulfur Dioxide NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Grant County, SD[1] ... Grant County.	9/12/16	Unclassifiable/Attainment.

[1] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 23. Section 81.343 is amended by revising the table entitled "Tennessee—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.343 Tennessee.

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Tennessee—2010 Sulfur Dioxide NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Sullivan County, TN[1] ... Sullivan County (part). That portion of Sullivan County encompassing a circle having its center at the B–253 power house coordinates 36.5186 N.; 82.5350 W. and having a 3-kilometer radius.	10/4/13	Nonattainment.
Sumner County, TN[1] ... Sumner County.	9/12/16	Unclassifiable.

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

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■ 24. Section 81.344 is amended by adding a new table entitled "Texas—2010 Sulfur Dioxide NAAQS (Primary)" following the table "Texas—1971 Sulfur Dioxide NAAQS (Primary and Secondary)" to read as follows:

§ 81.344 Texas.

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Texas—2010 Sulfur Dioxide NAAQS
[Primary]

Designated area	Designation	
	Date	Type
Potter County, TX[1] ... Potter County, TX.	9/12/16	Unclassifiable.
Atascosa County, TX[1] ... Atascosa County, TX.	9/12/16	Unclassifiable/Attainment.
Fort Bend County, TX[1] ...	9/12/16	Unclassifiable/Attainment.

TEXAS—2010 SULFUR DIOXIDE NAAQS—Continued

[Primary]

Designated area	Designation	
	Date	Type
Fort Bend County.		
Goliad County, TX[1]	9/12/16	Unclassifiable/Attainment.
Goliad County.		
Lamb County, TX[1]	9/12/16	Unclassifiable/Attainment.
Lamb County.		
Limestone County, TX[2]	9/12/16	Unclassifiable/Attainment.
Limestone County.		
McLennan County, TX[2]	9/12/16	Unclassifiable/Attainment.
McLennan County, TX.		
Robertson County, TX[2]	9/12/16	Unclassifiable/Attainment.
Robertson County.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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■ 25. Section 81.350 is amended by revising the table entitled "Wisconsin—2010 Sulfur Dioxide NAAQS (Primary)" to read as follows:

§ 81.350 Wisconsin.

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WISCONSIN—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
Rhinelander, WI[1]	10/4/13	Nonattainment.
Oneida County (part).		
City of Rhinelander, Crescent Town, Newbold Town, Pine Lake Town, and Pelican Town.		
Columbia County, WI[2]	9/12/16	Unclassifiable/Attainment.
Columbia County.		

[1] Excludes Indian country located in each area, if any, unless otherwise specified.

[2] Includes Indian country located in each area, if any, unless otherwise specified.

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[FR Doc. 2016–16348 Filed 7–11–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[ET Docket No. 04–35; FCC 16–63]

Disruptions to Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Report and Order,* the Commission updates several of its outage reporting metrics, methodologies, and procedures for a number of providers covered in the Commission's rules concerning disruptions to communications and directs the Public Safety and Homeland Security Bureau (Bureau) to further evaluate issues related to the sharing of information from the Commission's Network Outage Reporting System (NORS) with state and federal partners. The *Order on Reconsideration* limits outage reporting for events affecting airports to outages that impact airport critical communications, and exempts satellite and terrestrial wireless carriers from reporting outages affecting all "special offices and facilities."

DATES: The final rules are effective August 11, 2016, except 47 CFR 4.5(b) and (c), 4.7(d) and (e)(2), and 4.9 (a)(2), the second sentence in paragraph (a)(4), the second and sixth sentence in paragraph (b), (e), (f)(2), and the second sentence in paragraph (f)(4) which contain new or modified information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Brenda D. Villanueva, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–7005 or *brenda.villanueva@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* and *Order on Reconsideration* in PS Docket Nos. 11–82 and 15–80 and ET Docket No. 04–35, adopted on May 25, 2016, and released on May 26, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf.* This Order updates several of the Commission's outage reporting metrics, methodologies, and procedures for a number of providers covered under its part 4 rules concerning disruptions to communications and directs the Public Safety and Homeland Security Bureau (Bureau) to further evaluate issues related to the sharing of information from the Commission's NORS program with state and federal partners.

Synopsis of the Report and Order

I. Report and Order

1. Codified in part 4 of our rules, outage reporting requirements support our public safety goals by directing providers to report network outages that exceed specified magnitude and duration thresholds. Outage data give the Commission an overall picture of communications network reliability that

enables it to identify adverse trends. In turn, the data enable Commission staff, working closely with providers and industry working groups, to understand and address systemic vulnerabilities. Such collaborative efforts have led to measurable improvements in network reliability and resiliency, and to the formulation of policies to promote more reliable and secure communications. Moreover, outage reports, particularly in the early stages of a communications disruption, provide critical situational awareness that enables the Commission to be an effective participant in emergency response and service restoration efforts.

A. Major Transport Facility Outages

1. Major Transport Facility Outage Metric and Threshold

2. In 2004, the Commission required outage reporting for communication disruptions impacting major transport facilities, specifically those with significant traffic-carrying capacity, such as DS3 circuits. The Commission created a metric and threshold for this outage reporting in standards defined in impacts to DS3 circuits; specifically, the Commission adopted DS3 as the base metric and 1,350 DS3 minutes as the reporting threshold. Since then, our part 4 rules require a covered provider to file reports with the Commission in the NORS online database when a DS3 circuit (or its equivalent) that it owns, operates, leases, or otherwise utilizes, experiences a communication disruption that lasts for at least 30 minutes and meets the 1,350 DS3 minute threshold. When the Commission originally adopted the part 4 rules, DS3 circuits were the "common denominator," that is, the standard facility used in networks for major traffic transport. Today, however, providers use larger, fiber facilities for major traffic transport, and thus have decreased their use of DS3 circuits. This shift has rendered the DS3-based reporting metric and the corresponding 1,350 DS3 minute threshold obsolete and unhelpful for outage analysis. This is borne out by the past ten years' NORS data, which show a marked increase in reported DS3 standard-based incidents that involve only minor disruptions that are unlikely to have any significant communications impact or jeopardize public safety. In the same period, the industry has broadly adopted OC3 as the predominate architecture for major transport facilities.

3. Accordingly, in the *Notice,* we proposed to change the base major transport facility outage reporting metric from DS3 to OC3, to preserve our near- and medium-term ability to obtain critical information to analyze communications network reliability. We also proposed a corresponding reporting threshold shift from DS3 minutes to OC3 minutes. Finally, we proposed language to ensure inclusion of other transport facilities beyond OC3, *i.e.,* "other circuits or aggregations of circuits that provide equal or greater capacity." To effectuate that technologically neutral objective, we proposed to adjust the number of OC3 minutes based on some measure of equivalency to the current 900,000 user-minute threshold for voice-grade users, which we posited as 667 OC3 minutes. Despite suggestions to move our metric to OC12 or higher, we find that OC3 gives us the right amount of visibility into customer access circuits that may not be captured by a metric above OC3.

4. The record reflects strong support for adjusting the major transport facility outage metric and threshold as we proposed in the *Notice.* Several commenters agree that major transport traffic now takes place more on fiber than on DS3 circuits. Many commenters also acknowledge that changing the standard as proposed will give the Commission information on significant outages that are more likely to have a material impact on users. Indeed, commenters predict that the change from DS3 to OC (whether at OC3 or above) will enhance outage reporting efficiency and reduce reporting burdens while also ensuring that the rules continue to target high-capacity facilities and track major outage events that have a material impact on users. Commenters also agree that changing the standard from a DS3 basis to a higher capacity level basis will reduce the number of outage reports required for relatively minor incidents.

5. Despite broad support that the major transport facility outage reporting metric should change from a DS3 to a higher capacity, those supporting the change do not agree on what that specific capacity level should be. Several commenters share our view that the new metric should be based on OC3—where the threshold would be 667 OC3 minutes. Others, however, propose alternative metrics and thresholds. For example, some commenters suggest OC12 (or similarly high capacity level) as the appropriate standard because, in their view, it more properly reflects the past decade's network technology advancements than OC3. Others, like CenturyLink, push for an even higher metric, *e.g.,* OC48 or OC192.

6. AT&T, on the other hand, recommends an OC12-based metric, and further proposes to measure the transport facility's "working" capacity, as opposed to our current measure of "failed" capacity, as the appropriate standard for reporting. In support of its working capacity proposal, AT&T explains that OC3 circuits are usually on its network edge (*e.g.,* enterprise local loop and access services), and thus it argues that an OC3 metric would provide little insight on outages affecting the core of the network. Ultimately, AT&T proposes the elimination of major transport facility outage reporting altogether, and advocates instead that the Commission focus on events that impact customer service, such as "end office isolations, SS7 isolations, call blockages, and E911 failures." AT&T maintains that in proposing a new metric and threshold, we miss an opportunity to conduct a comprehensive review of the information that will "best apprise [the Commission] of the overall health of the nation's networks," and, that failed transport capacity is an inadequate metric because it does not necessarily reveal the effect on customers' service or provide an accurate portrayal of network health.

7. Comcast proposes to abandon a time-division multiplexing (TDM)-based metric and advocates using a bandwidth-based metric instead. Comcast advocates for the adoption of a "bandwidth-based standard, such as 1GB outage that lasts for at least 30 minutes." Comcast further suggests that its approach can accommodate future changes more readily than a TDM-based standard. Verizon disagrees, arguing that more study is needed to ensure Comcast's platform-shift approach would capture a "genuine outage or significant degradation of service," and "apply on a cross-platform basis."

8. We adopt our proposals to (i) change the metric and threshold for major facility outages from a DS3-based to an OC3-based metric, and (ii) adjust the threshold to 667 OC3 user minutes accordingly. There is substantial record support for moving our metric to a standard based on higher capacity levels (*e.g.,* to OC3 or higher). These changes update our major transport facility reporting to reflect prevalent technological changes in networks, and do so in a logical and technologically neutral manner. Compliance with this revised metric shall begin no later than 6 months after the Effective Date of the rules.

9. Moreover, multiple commenters agree that providers have been moving a majority of their traffic onto larger fiber facilities, a trend that is likely to continue. Thus, although a DS3-based

metric may have been the right standard for 2004's predominant technology for major transport, it is no longer appropriate. At this time, adjusting the metric to OC3 will streamline the reporting in general, a benefit both to providers and the Commission alike through reduced reporting of minor incidents, allowing time and resources for an increased focus on meaningful outage reporting that is more likely to have a user material impact.

10. At this time, we are not persuaded by those commenters who advocate for a higher OC level. An OC3-based metric will generate the visibility into the network components that an OC12-based metric may not, as it would capture access circuit outages for business customers. Setting a metric at OC12 would provide the Commission with limited, inadequate visibility into major transport facility infrastructure and related outages, *i.e.*, those beyond the network core. Further, we recognize that some networks may utilize OC3 circuits as access circuits and others may utilize them for interoffice facility traffic, and so an OC3-based metric may not provide the same degree of visibility into operational health for all providers' networks. Nevertheless, we believe that basing our outage reporting requirements at the OC3 level "or their equivalents" as proposed in the *Notice* captures the important communication disruptions in networks large and small, regardless of providers' OC3 circuit usage. Moreover, an OC3 metric allows the Commission to better focus on outage trends that may uniquely affect small and medium-sized businesses, whose traffic is often transported over OC3 facilities. Therefore, we adopt an OC3 metric for major facility outages.

11. In doing so, we affirm the importance of an independent outage reporting requirement for major transport facility failures. Through the collected information on the "potential impact on all communications services of major infrastructure failures," specifically information about "infrastructure components having significant traffic-carrying capacity," as the part 4 rules were intended to capture, our work has led to increased collaborative efforts with providers and a more efficient mitigation of outage trends. AT&T's proposal to eliminate major transport facility reporting requirements assumes that (1) our 900,000 user-minute threshold captures the same visibility of major transport facilities as our current DS3 metric and threshold, and that (2) providers only use OC3 circuits as access circuits to conclude that the adoption of our proposal would lead to duplicative reporting. While a few communication disruptions may be reportable outages because they meet both thresholds (900,000 user minutes; 1,350 DS3 minutes), by having the two metrics and thresholds we capture outages caused by switch failures or major transport equipment failures. Therefore, if we eliminated the major transport outage reporting, we would likely miss communication disruptions experienced in interoffice transport facilities. Moreover, while some providers, such as AT&T, may use OC3 circuits as access circuits, other providers may design their networks differently and some customers, like small and medium-sized businesses may be uniquely impacted at the OC3 level. To address networks designed like AT&T's, the rules adopted today capture communication disruptions experienced in higher capacity levels than OC3, by defining OC3 minutes using OC3 "or their equivalents."

12. The adoption of the OC3 metric ensures an appropriate level of Commission visibility into the resiliency and reliability of critical infrastructure presently—and for at least the near-to-medium term—in use in communications networks for major traffic transport. Such visibility, adjusted to the OC3 level, is an essential component of the Commission's network reliability and public safety duties. Thus, we decline proposals to eliminate major transport facility outage reporting.

13. Finally, two commenters suggest alternative proposals, neither of which provides the needed visibility into the nation's networks for the Commission to ensure communications are reliable and resilient. AT&T's "working capacity" proposal would use a measure such as "the percentage of the circuit dedicated to voice channels." It would thus require providers to assess whether and when to give the Commission the major transport facility outage reports it needs. Our current requirements give clear direction: once a DS3 circuit experiences a communication disruption for at least 1,350 DS3 minutes and lasts for at least 30 minutes, the provider must report the outage accordingly. As announced in 2004, we continue to believe that "our concern is the failure of working DS3s regardless of the services being carried or the fill at the time of the failure." Significantly, AT&T's "working capacity" proposal would generate burdens on providers by imposing measurement mechanisms based on a working capacity metric that, as an initial step, would require the provider to identify the percentage of the circuit dedicated to voice channels. It remains unclear whether other providers can measure working capacity on their facilities at this time, or the costs involved with such monitoring. It is also unclear how AT&T's proposal applies in the legacy or the transition network contexts. Further, AT&T's proposal would constitute a shift that does not comport with the logic of outage reporting, which necessarily focuses on what does not work, instead of what does work. Accordingly, we reject AT&T's "working capacity" proposal.

14. Comcast proposes a bandwidth-based standard for major transport facility outages, as described above. The proposal requires further study and therefore cannot be the basis to change our metric and threshold for major transport facility outage reporting at this time. We agree with Comcast that data traffic makes up an increasingly large part of bandwidth needs for transport services. We also note that we are in a state of transition from TDM to IP. This state of transition requires reporting requirements that are sufficient to capture outages in both TDM and IP networks, including specifically those outages impacting physical facilities and network components (*e.g.*, copper and fiber cables, networking switches and routers). We also believe that the successful and reliable delivery of IP-based services and applications (*e.g.*, email) is important. The OC3 metric and 667 OC3 minute threshold adopted today address outages in major transport facilities carried through TDM-based and SONET facilities. We nevertheless find that Comcast's proposal has merit and seek further input on broadband reporting thresholds in the related *Further Notice*. Therefore, we decline to adopt Comcast's proposal for a bandwidth-based standard for reporting at this time.

2. Simplex Outage Reporting

15. Under our current rules, providers must file reports for simplex event outages lasting five days or more. A simplex event occurs when a DS3 circuit, designed with multiple paths to provide circuit resiliency, experiences a failure on one working path. In the *Notice*, we proposed to shorten the reporting window for simplex events to 48 hours. As we explained, in recent years the Commission has noticed an uptick in simplex outage reports, which suggests that our expectations that providers would implement best practices for resolving such events when we established the five-day reporting window were not met. Thus, in the *Notice*, we concluded that our proposed 48-hour window would ensure that

providers properly prioritize service maintenance and restoration in the event of simplex outages.

16. Most commenters oppose our proposal to reduce the reporting window from five days to 48 hours. Several commenters argue that factors such as weather, other hazardous conditions, or the complexity of repair tasks could render a 48-hour target unattainable in many cases. Other commenters claim that a 48-hour window would unnecessarily increase reporting burdens as well as compliance costs without corresponding benefits. Some commenters maintain that, rather than tighten the window, the Commission should eliminate outage reporting for simplex events entirety. And, although Verizon supports the status quo, it argues that a three-day threshold would be preferable to a 48-hour threshold as a way to better accommodate service providers' practices and technician maintenance and work schedules.

17. We conclude that simplex outage reporting remains an important part of the situational awareness matrix that NORS provides. The Commission has a responsibility to ensure network reliability and resiliency, including in major transport facilities designed with a built-in path protection. Over the years, we have observed a rise in simplex event outage reports as the rule stands now with the five-day reporting window, which appears to indicate that providers filing these reports are not able to repair the simplex events in a period less than five days.

18. We are persuaded by the record, however, that moving the reporting window from five days to 48 hours may not strike the proper balance between providers' best practice-driven repair and maintenance capabilities and incentives, and the Commission's situational awareness needs and network reliability-assurance goals through simplex event outage reports. We acknowledge, as some commenters argue, that factors such as weather or hazardous conditions impact service repair. We cannot, however, ignore that extended simplex events jeopardize service reliability.

19. Accordingly, we adopt a four-day interval for simplex outage reports. Further, compliance with this revised interval shall begin no later than six (6) months after OMB approval. In this regard, we reject proposals by some commenters to maintain the current five-day window, which we view as inadequate to incent timely repair, and we reject those calls for eliminating simplex reporting altogether. The Commission has a responsibility to ensure network reliability and resiliency, including in major transport facilities designed with built-in path protection, and simplex reporting is a needed and helpful tool used to meet this responsibility.

20. Currently, we require that providers report simplex events lasting longer than 5 days; we have not required reports for events repaired within five days. A provider may experience a short simplex event, conduct necessary repairs within five days and not be obligated to report the event under part 4. We no longer believe that our five-day reporting window for simplex outages is an adequate measurement tool to ensure network reliability and resiliency. The four-day reporting window that we adopt today is designed to alert the Commission to trends that include significant outages, while also accommodating Verizon's suggested need for providing a reasonable amount of time to address the outages before the reporting threshold is met.

B. Wireless Outage Reporting

1. Calculating the Number of Potentially Affected Users in Wireless Outages

21. To determine if a wireless network outage is reportable based on meeting the 900,000 user-minute threshold, a wireless service provider must calculate the number of users "potentially affected" by the outage. Pursuant to Sections 4.7(e) and 4.9(e), providers should perform the calculation "by multiplying the simultaneous call capacity of the affected equipment by a concentration ratio of 8." This call capacity measurement is typically undertaken at the mobile switching center (MSC). As wireless technologies have evolved, however, providers have made different technological and engineering choices, resulting in a variety of methods by which they measure simultaneous call capacity. These developments have led to a lack of methodological consistency among providers in reporting outages. Such inconsistencies compromise the Commission's ability to detect and analyze wireless network outage trends.

22. We proposed in the *Notice* to adopt a more standardized, technologically neutral method for calculating the number of users "potentially affected" by a wireless network outage. Under the first approach, wireless providers would calculate potentially affected users by multiplying the number of disabled cell sites by the average number of users the provider serves per site. Under the second approach, providers would use the Visitor Location Register (VLR) to determine the actual number of users that were being served at each affected cell site when the outage commenced.

23. The majority of commenters support our proposal to adopt a more standardized method for wireless providers to calculate the number of users "potentially affected" by an outage. While ATIS appreciates our goal, it does recommend that wireless providers should be allowed to pick the method they want to use. CCA opposes the proposal on the basis that it would create two separate metrics, one for Public Safety Answering Point (PSAP) outages and the other for all other outages, which would complicate outage reporting or impose administrative burdens on carriers, particularly smaller carriers with limited staff support.

24. The majority of commenters also support adopting the first approach to calculating potentially affected users—multiplying the number of disabled sites by the average number of users per site. Commenters universally oppose the VLR option for determining the number of potentially affected users in a wireless outage. Several commenters assert the use of the VLR makes the calculation more complex, would potentially be costly to implement, and would likely lead to potentially inconsistent reporting. Many commenters also point out that the VLR is being phased out, as wireless technology advances.

25. We believe that a more standardized, technologically neutral method for calculating the number of "potentially affected" users for wireless network outages is critically important to ensure consistency in reporting across providers, regardless of the technological differences in their networks, and that such consistent reporting will enhance our situational awareness through more uniform, accurate, and reliable NORS data. To accomplish these aims, we adopt the first of our proposed approaches: to determine if an outage meets the 900,000 user-minute threshold, a wireless provider must multiply the number of macro cell sites disabled in the outage by the average number of users served per site, which is calculated as the total number of users for the provider divided by the total number of the provider's macro cell sites. For purposes of this calculation, wireless providers should include only traditional cell tower deployments, *i.e.,* macro cell sites, and not small cell sites (*e.g.,* femto-cells, pico-cells, and micro-cells) or other wireless architecture (*e.g.,* Wi-Fi, Distributed Antenna Systems).

Compliance with this revised methodology shall begin no later than nine (9) months after the Effective Date of the rules.

26. We agree with commenters that this approach is simpler than the current measurement and can be implemented at little to no additional cost. This simplicity of measurement and implementation promotes consistent outage reporting that should facilitate accurate analysis of the NORS data we receive. Conversely, as several commenters noted, using data from the VLR (*i.e.*, the second approach) would be costly to implement, less likely to provide consistent data among providers and, in any event, would be less useful over time because the VLR itself is currently being phased out.

27. Given that the method we adopt is relatively straight-forward for carriers to calculate and will result in uniform, consistent reporting, we disagree with ATIS that wireless providers should be allowed to pick the method they want to use. Such an approach would lead to inconsistent data among providers, thwarting the very goal of adopting the new metric. Also, given that we believe, and providers tend to agree, that the new method will be easy to implement, we disagree with CCA that implementing a new, uniform method for calculating the number of "potentially affected" users with wireless outages would complicate outage reporting or impose administrative burdens on carriers, particularly smaller carriers with limited staff support. Although we are sympathetic to CCA's concern that wireless providers will have to use one calculation for wireless outages generally and another for those affecting PSAPs, the scenarios are different and warrant different treatment. One calculation ensures the Commission has situational awareness of network health holistically, while the other provides direct public safety/emergency preparedness awareness through 911-specific outage reporting. We intend to monitor the need to revisit this reporting scheme based on experience, as small cells become capable of covering more capacity.

28. Finally, we note that Verizon and T-Mobile each propose alternatives that depart from using the "user-minutes" standard. Verizon suggests simply notifying the Commission whenever 30 macro cell sites go out in a particular geographic area, such as a Cellular Market Area (CMA) or Partial Economic Area (PEA). We believe the approach we adopt effectively achieves Verizon's simplicity objectives through per-cell site reporting, maintaining the user-minute reporting standard common across various platforms (wireless, wireline, VoIP, satellite, etc.). Moreover, Verizon's threshold of 30 cell sites within a CMA or PEA would not cover many—if not most—rural areas. T-Mobile advocates allowing carriers to measure outages "using real-time data where technically feasible," and when it is not feasible, to use the approach we adopt herein. We are concerned that, too often, such data will not be available, which will result in only a few carriers reporting using this data, resulting in the kind of reporting inconsistency we seek to avoid.

2. Calculating the Number of Potentially Affected Wireless Users for Wireless Outages Affecting a PSAP

29. Under our rules, wireless service providers must report any outage of at least 30 minutes duration that "potentially affects" a 911 special facility (*i.e.*, PSAP). An outage potentially affects a 911 special facility whenever, among other things, there is a loss of communications to a PSAP potentially affecting at least 900,000 user minutes. Shortly after the Commission adopted part 4, Sprint asked for clarification of this requirement when a wireless outage affects only some of the subtending PSAPs. Specifically, Sprint proposed that wireless providers be able to allocate the users covered by the MSC equally among the number of subtending PSAPs affected by the outage.

30. Sprint's proposed method of allocation, however, does not take into account the fact that PSAPs vary greatly in the number of users served. Therefore, in the *Notice* we proposed that wireless providers can allocate capacity when only one subtending PSAP is affected, but if they do, they must do so in reasonable proportion to the size of the PSAP in terms of number of users served. As we stated in the *Notice,* this calculation method is consistent with what we observe to be the current reporting practice of most providers. Several commenters support our proposal to allocate capacity to each subtending PSAP in reasonable proportion to its size in terms of number of users served.

31. We adopt our proposal and allow wireless providers to allocate capacity when an outage only affects some PSAPs served by an MSC, so long as the allocation is done in reasonable proportion to the size of the subtending PSAP(s) in terms of number of users. As noted by the California Public Utilities Commission (CPUC), PSAPs vary greatly in size nationwide, and allocating capacity to subtending PSAPs will limit reporting to those significant outages that potentially impact public safety and for which the rules are intended. In determining the number of potentially affected users served by a PSAP, providers can use various sources for the data so long as the method they choose provides a reasonable estimate of the relative size of the PSAP and can be occasionally updated. Reasonable estimates could be based on but are not limited to the following sources: the subtending PSAPs' relative size determined by using the number of 911 calls sent to the PSAP on a historical basis; the number of 911 calls to each PSAP during the outage (if available in real time); or the population served by each PSAP determined either through subjective data or extrapolated from census or other objective data sources that would be relied upon by a population statistician. Any of these methods should account for the relative size of the PSAP affected by the outage. Compliance with this revised allocation standard shall begin no later than nine (9) months after the Effective Date of this requirement.

32. We decline to adopt an across-the-board allocation standard, such as Sprint apparently suggests; however, providers may use the Sprint allocation approach or an alternate method that provides a reasonable estimate of the relative size of the PSAP. Providers must inform the Commission, in writing, of the approach they are using via the first NORS filing in which they are reporting data based on their approach. While Sprint's approach may be simple to calculate, dividing simply by the number of subtending PSAPs would not capture the significance of the outage. Only by allocating capacity based on the size of the PSAP will the estimate reflect an accurate picture of the size of the outage. We recognize, as ATIS and CTIA note, PSAP boundaries can fluctuate and the number of users allocated to the PSAP may change. Based on our experience dealing with PSAPs on a regular basis, we do not anticipate that these fluctuations will be significant or occur frequently, although the Commission would revisit this issue in the future if necessary. So long as the method reasonably captures the relative size of PSAPs, the method of allocation will be acceptable and, to the extent that it is needed, providers can work with Commission staff informally for further guidance.

C. Call Failures—Reporting on Outages That Significantly Degrade Communications to PSAPs

33. On January 26, 2011, a significant snow and ice storm hit the Washington, DC metropolitan area, causing widespread problems for all affected counties and cities in a several hundred mile swath from central Virginia through Baltimore, Maryland. These problems included the failure of roughly 10,000 wireless 911 calls carried over a major wireless provider's network to reach PSAPs in Montgomery and Prince George's Counties, Maryland. The provider did not report these outages, nor the problem(s) that caused them, to either the Commission or to affected PSAPs.

34. Inquiry into the outages revealed the root cause: cascading, "wink" failures of the Centralized Automatic Message Accounting (CAMA) trunks used in the provider's 911 network architecture. "Wink" failures occur when a selective router attempts to deliver a 911 call to a PSAP over an idle trunk, but the hand-off protocol between the router and the PSAP (the "wink") ultimately fails. More specifically, this means that the PSAP's customer premises equipment (CPE) fails to communicate to the selective router that it is "off-hook", *i.e.,* open and able to receive ANI and ALI information associated with the 911 call. This can occur when the CPE fails to recognize quickly enough that a 911 caller has disconnected—*i.e.,* that an "on-hook" condition has become an "off-hook" one—and, thus, that that a new 911 call can be received ("seized"). The result is a miscommunication that that particular trunk is unavailable to receive a call from the 911 selective router (a "no-wink" failure), which then pushes the call to the next best available trunk. If a call is re-presented to the original trunk that had the no-wink failure (as is common in heavy call volume periods) and the same problem occurs (a "double wink" failure), the 911 selective router will stop attempting to deliver calls via that trunk. If a heavy call volume event persists, the problem can cascade to all trunks serving a PSAP, leading to reduced, or total loss of, call-handling capacity within the trunk groups serving a particular PSAP. CAMA trunk arrangements are commonly used in legacy wireline network architecture for 911 call delivery, so the "wink" failures during the January 2011 storm are not specific to the provider's network trunk arrangements.

35. In the *Notice,* the Commission proposed to codify in part 4 how to address this situation, and asked commenters to discuss specific rules proposed toward that end. Specifically, we sought comment on whether to amend Section 4.5(e)(1) to specify when "degradation of communications to a PSAP constitutes a reportable outage" under part 4. By doing so, we rejected the notion that PSAP-related outages need only be reported "when a PSAP is rendered unable to receive *any* 911 calls for a long enough period to meet the reporting threshold." We proposed revising Section 4.5(e)(1) to provide that "any network malfunction or higher-level issue that significantly degrades or prevents 911 calls from being completed constitutes a 'loss of communications to PSAP(s),' regardless of whether the PSAP is rendered completely unable to receive 911 calls."

36. Many public safety, state, and carrier commenters agree that the Commission should specify the circumstances under which a "loss of communications" to PSAPs rises to the level of "significant degradation" such that it would be reportable under part 4. APCO advises that "knowledge of a significant degradation of service short of a complete failure is of high value to PSAPs and emergency managers," a sentiment echoed by NASNA, which believes that "it should not matter" whether a PSAP has suffered a complete or only a partial loss of ability to receive 911 calls.

37. Comcast, CenturyLink and XO Communications do not oppose such an approach, so long as the Commission (i) does not require reporting when re-routing is available for all calls to PSAPs, (ii) requires reporting only when an outage that meets the 30 minute/900,000 user minutes threshold "actually" impacts emergency call handling or completion, and (iii) gives providers sufficient lead time to make the necessary adjustments to ensure compliance (*e.g.,* through properly configuring alarms on trunks, etc.).

38. On the other hand, wireless providers are largely opposed to the proposal to include "loss of communications" to PSAPs under Section 4.5(e). Sprint opposes the proposed rules on the grounds that "CMRS providers do not have visibility into PSAP facilities on the PSAP side of the point of demarcation, so CMRS providers would not be able to report on whether a PSAP is experiencing an issue that significantly degrades or prevents 9–1–1 calls from being completed." Several providers maintain that part 4 reports should only be required where a PSAP is completely unable to receive 911 calls.

39. Part 4's purpose is to collect information on "service disruptions that could affect homeland security, public health or safety." To meet this goal, the rules must include the kinds of 911 call-impacting trunk failures at issue in the January 2011 DC area storm. Indeed, subsequent work done by the Commission (and, eventually, by industry vis-à-vis ATIS) to identify, study and develop solutions to the CAMA trunk failures is a model of what could—and should—have happened under part 4: A "systematic analysis of the conditions that le[d] to [significant communications] degradations [that] help[ed] reveal potential solutions." The ability to analyze, develop solutions, and work with providers to implement those solutions enhances public safety.

40. With respect to 911-related outages, our rules are quantitative and qualitative in scope and application, and define reportable outages both in terms of total connectivity failure and qualitative failures. Consistent with that approach, we adopt the proposal in the *Notice* to specify that a "loss of communications" should trigger part 4 reporting obligations in the same way as a "network malfunction or higher-level issue that significantly degrades or prevents 911 calls from being completed to PSAPs." We provide that a "loss of communications" occurs when at least 80 percent of a 911 service provider's trunks serving a PSAP (*i.e.,* trunks over which the 911 service provider has control) become impaired to the point that they cannot support 911 call delivery in accordance with the Commission's rules, including the information typically delivered with 911 calls. In other words, a 911 service provider would not need to report when 80 percent of its trunks go down if the remaining 20 percent could support delivery of 911 calls, including the number and location information, but it must report if not all 911 traffic can be re-routed, or if the re-routed traffic cannot be delivered without stripping it of number or location information. We disagree with Comcast that the Commission must further define "impairment" of a 911 call for service providers to comply with the reporting rules. Moreover, this approach maintains the thrust of the rule as currently written: If sufficient re-routing is available for all affected 911 calls and no necessary information is stripped from those calls, then providers are not required to report to the Commission, irrespective of the percentage of available trunk capacity.

41. We find this to be a clear, objective metric about which 911 service providers would "become reasonably aware pursuant to normal business practices," such as the

installation and monitoring of trunk alarms. We do not intend to list, define, or otherwise impose particular compliance solutions for providers, consistent with the Commission's long-standing practice of deferring to network service providers in the design and engineering of their networks. Trunk alarms are already ubiquitous as a network reliability "best practice," and would presumably enable providers to determine when the 80 percent threshold is approaching or is reached in a given event. We acknowledge Sprint and Verizon's comments about needing visibility into trunks to know when a "loss in communications" occurs, but we note that this rule applies to 911 service providers, which, by definition, do have visibility into such trunks. We also believe that this metric strikes a fair balance between proposals from the public safety community who believe the bar should be set as low as possible and include even non-critical outages, and 911 service providers who want only to report in instances of complete 911 call failure across all trunks (which would not include the January 2011 incident described above).

42. We also agree with CenturyLink that an 80 percent threshold will not be overly burdensome so long as providers are given the lead time necessary to manage the costs of solution development and implementation needed for their particular networks. To allow time for compliance with other 911-related Commission requirements, CenturyLink initially proposed a one-year implementation deadline for this requirement. We recognize that some providers will be able to move faster and achieve compliance well before one year, given present or scheduled investments in necessary facilities, but others will need more time to comply with the requirements. Further, we note that providers have had ample time to comply with the requirements underlying CenturyLink's concern, but we nevertheless feel a one-year implementation timeframe is appropriate to allow flexibility for smaller carriers. Thus, because it does not interfere with other part 4 reporting requirements, we find that a one-year implementation timeframe should be sufficient for both small and large providers to achieve compliance, and incorporate that timeframe into our rules. Accordingly, compliance with this revised metric shall begin no later than one year after OMB approval.

43. Finally, we disagree with CTIA's argument that our concerns are "speculative": The 10,000 911 call failures associated with the January 2011 DC area storm had a significant real world impact but was nevertheless deemed non-reportable by a licensee. Nor do we believe our proposals are "unworkable": 911 service providers should reasonably be expected to have adequate visibility into PSAP trunk failure.

D. Special Offices and Facilities

1. Identifying Special Offices and Facilities

44. A major underlying goal of outage reporting generally, and for reporting on "special offices and facilities" in particular, is for the Federal government—including Federal government users—to have situational awareness of events that impact homeland security and the nation's economic well-being. When the Commission adopted rules in 2004, the Commission deferred to the National Communications System (NCS) to determine which facilities would be considered major military installations or key government facilities, and would, under certain conditions, report "mission-affecting outages" to the NCS. The NCS would in turn forward reports of those outages to the Commission. However, the NCS was dissolved in 2012. Accordingly, in the *Notice,* the Commission sought comment on how it should thereafter identify "special offices and facilities" for part 4.

45. We note that reporting requirements applicable to "special offices and facilities" have been an integral part of part 4 since the rules' adoption in 2004. As it relates to covered airports, the rules stated that all outages lasting 30 minutes or longer that "potentially affect communications" must be reported, and that "mission-affecting outages" to certain government facilities and military installations (as determined by NCS) also were covered by part 4.

46. We proposed to classify as "special offices and facilities" those facilities enrolled in or eligible for the Telecommunications Service Priority (TSP) Program, which prioritizes the restoration and provisioning of circuits used by entities with National Security/Emergency Preparedness (NS/EP) responsibilities and duties. We also asked whether there were alternative classification frameworks that would be more suitable, including broadening the scope of the definition of "special offices and facilities" to include those facilities that are guaranteed priority restoration under "TSP-like" provisions in service-level agreements. We concluded by requesting comment on our assumption that redefining the term "special offices and facilities" to include some variant of TSP-enrolled and/or-eligible facilities would not have an appreciable cost impact.

47. Comments on our "special offices and facilities" classification proposal range from a call to eliminate reporting all together, to multiple alternatives for identifying the subject facilities. Most commenters who oppose the special facilities reporting proposal (to include all TSP enrollees and eligible participants) feel that it would subject too many entities to the rules, without a corresponding increase in public safety or situational awareness; would needlessly divert a provider's resources to tracking down and tagging circuits; and would require providers to identify tens of thousands of new, potentially TSP-eligible parties.

48. Many commenters express support for our proposal so long as the Commission limits applicability of the rules to entities that are (1) enrolled in the TSP program, and (2) only those designated at the highest TSP priority levels (*i.e.,* Levels 1 and 2). In its comments, Comcast suggests that the Commission include, in any new or amended rule, only those TSP participants that constitute "major military installations" or "key government facilities" as "special offices and facilities:"

> For the most part, such entities will be those enrolled in TSP priority Level 1 or Level 2. Extending the definition to all entities that are enrolled in the TSP program, irrespective of priority level, would flood the Commission with reports related to outages that do not actually impact a "special office or facility." Although such offices and facilities unquestionably are important and should be part of the TSP program, reporting outages that affect such facilities, rather than "major military installations" or "key government facilities," risks obfuscating truly critical outages.

49. As a preliminary matter, we reject comments suggesting the "special offices and facilities" reporting rule itself is outdated and ought to be eliminated altogether. Under the rules that have been in place since 2004, neither the NCS nor its member agencies appear to have followed the applicable portions of Sections 4.5 (on self-identification as a "special office or facility") and 4.13 (on member agencies reporting qualifying outages to the NCS, and NCS using its discretion to forward those outage reports to the Commission), so that previous "special offices and facilities" formula did not work as the Commission intended. We do not believe, however, that this fact in and of itself signifies that reporting outages at special offices and facilities is

not useful. Rather, we should fix the rule, not eliminate it, to facilitate its original goals. Reporting on "special offices and facilities" (as amended) is an important component in our efforts to promote public safety.

50. Today, we characterize "special offices and facilities" as those enrolled in Levels 1 or 2 of the TSP program. To close the significant reporting gap on special offices and facilities, we proposed initially to classify all facilities enrolled in, or eligible for, the TSP program as "special offices and facilities" for part 4 reporting purposes. As we observed in the *Notice,* the TSP program prioritizes the restoration and provisioning of circuits used by entities with NS/EP responsibilities and duties and comprises five priority levels, with Levels 1 and 2 reserved for critical national security and military communications and the remaining levels dedicated to the protection of public safety and health and the continued functioning of the economy. As the Bureau previously has noted, "[v]ery few circuits receive a TSP priority Level 1 or Level 2 assignment." Compliance with this requirement shall begin no later than eighteen (18) months after OMB approval.

51. We believe that outages affecting highest-priority TSP enrollees (*i.e.,* Levels 1 and 2) are the types of outages for which we must have situational awareness; the communication security of TSP enrollees affects our nation's security leadership and posture, its public safety and public health, and our national economic system, and the Commission must be aware of any trends, through NORS analysis, that relate to certain TSP enrollees. As commenters note, were we to adopt a formula to cover all entities that were either enrolled or eligible to be enrolled in the TSP program, the number of reportable events would overwhelm both the covered parties and available Commission resources, with no concomitant increase in public safety or national security. Even to include parties that are enrolled at all priority levels in the program would have posed significant challenges. Thus, we believe limiting coverage to only Levels 1 and 2 strikes an appropriate balance between the untenable position of eliminating any rules applicable to "special offices and facilities," and extending the rules to all entities that are enrolled or eligible to be enrolled in the TSP program at any of the five priority levels, which we concede could incur a significant cost for a minimal benefit. We find that limiting our rule to Levels 1 and 2 will not present widespread technical, administrative, or financial burdens to covered parties.

2. Section 4.13

52. Section 4.13 directs special offices and facilities to report outages to the now-dissolved NCS, which could then forward the reported information to the Commission at its discretion. Because our rules separately impose requirements on communications providers to report outages that potentially affect "special offices and facilities," and in light of the elimination of the NCS, we proposed deleting Section 4.13 "as redundant with respect to information that providers are already required to supply, and obsolete with respect to obligations regarding the NCS."

53. We agree with commenters that we should remove Section 4.13 from our rules as redundant of other provisions within part 4, and accordingly will delete it. While supporting elimination of Section 4.13, AT&T added that we should incorporate elsewhere in the rules a requirement that "affected facilities" initiate contact with the communications provider about the disruption in service. We decline to adopt AT&T's proposal, finding it would unnecessarily preclude alternative methods that providers may use to receive information about outages without corresponding benefit.

3. Airport Reporting Requirements

54. Airports included in the Federal Aviation Administration's (FAA) National Plan of Integrated Airports Systems (NPIAS) are designated as falling into one of four categories: Primary commercial service (PR), non-primary commercial service (CM), reliever (RL), and general aviation (GA). Currently, airports designated as PR, CM, and RL are defined as "special offices and facilities" for purposes of Section 4.5(b) of the Commission's rules, and so are subject to outage reporting requirements set forth in Sections 4.11 and 4.13 of the Commission's rules that do not apply to outages affecting other kinds of facilities.

55. In the *Notice,* we proposed two significant changes to our reporting requirements for outages that affect airport communications. First, we proposed amending Section 4.5(b)'s definition of the types of airports considered as "special offices and facilities," to narrow its focus to airports designated as PR. Second, we proposed to clarify that reportable outages are those that impact "critical communications" at those airports.

56. Regarding narrowing the scope of airports to only those designated "PR," we noted that most reports concerned outages not significant enough to pose a substantial threat to public safety, particularly at smaller regional airports, and thus we sought comment on amending the definition of "special offices and facilities" to exclude all airports other than those designated "primary commercial service" airports (*i.e.,* the nation's most heavily trafficked airports, where even minor degradations in critical communications can pose grave threats to public safety and national security) in the NPIAS.

57. With respect to our proposal to clarify that only outages that potentially affect critical communications at an airport should be reported, we sought comment on defining the phrase "critical communications." From 1994 through 2004, under 47 CFR 63.100(a)(6), the Commission defined outages affecting "critical communications" at airports. We also noted that, were we to clarify that our intent was to receive reports only of outages that affected critical communications at airports, then few (if any) outages at an airport would rise to the threshold of being reportable, which in turn would represent an affirmative cost savings to communications providers.

58. In 2004, the Commission proposed to incorporate, but ultimately did not adopt, the Part 63 definition of an outage that "potentially affects" an airport:

> (i) Disrupts 50 percent or more of the air traffic control links or other FAA communications links to any airport; or
>
> (ii) has caused an Air Route Traffic Control Center (ARTCC) or airport to lose its radar; or
>
> (iii) causes a loss of both primary and backup facilities at any ARTCC or airport; or
>
> (iv) affects an ARTCC or airport that is deemed important by the FAA as indicated by FAA inquiry to the provider's management personnel; or
>
> (v) has affected any ARTCC or airport and that has received any media attention of which the communications provider's reporting personnel are aware.

59. Most commenters agree that we should adopt the proposal in the *Notice* to narrow the scope of airports to only those designated PR in NPIAS. On the issue of the types of communication outages that would be reportable, commenters agree that only outages that potentially affect critical communications at an airport should be considered, but raised some concerns. CenturyLink, for example, notes that while it generally supports the proposal to clarify what constitutes "critical

communications," "there is some question on the details of the NPRM's proposal to define what outages potentially affect an airport and would be reportable," believing the *2004 Part 4 NPRM* definition was not sufficiently clear on how providers would be able to assess when 50 percent of an airport's air traffic control links are disrupted, along with vagueness on how providers would be notified of airports "deemed important" by the FAA.

60. On whether to narrow the scope of airports covered by our rules, we agree that the rule as currently written is unnecessarily broad. The airport-originating reports received by the Commission in recent years have generally related to outages within the retail sections of an airport. We agree with commenters that requiring providers to report these outages represents a substantial financial and administrative burden on those providers. Moreover, we do not believe that eliminating communications outage reporting from non-primary commercial service and reliever airports will negatively impact the safe operation of our nation's airports and air travel system. We therefore amend Section 4.5(b) to limit the requirement of reporting outages that "potentially affect" an airport to only those determined by the FAA to provide primary commercial service.

61. On the issue of limiting the type of communications subject to this rule, we clarify that our concern is only with outages that potentially affect critical communications at covered airports. We note that the Commission first adopted the "five-point" definition in 1994, to provide clarity and thoroughness in reporting, as 47 CFR 63.100(a)(6), although it did not apply this definition in 47 CFR part 4.5(c). In the *Notice*, we posited that, even though the Commission refrained from adopting it in 2004, the definition from former rule 47 CFR 63.100(a)(6) would be appropriate to make clear that for reporting purposes, only outages that impact critical communications at an airport are of concern. We find that the concerns raised by CenturyLink about ambiguity in the definition from the *2004 Part 4 Notice* are unfounded. Regarding CenturyLink's concern about a provider's ability to ascertain when 50 percent of an airport's control links are disrupted, we conclude that providers have sufficient ability to quantify outages at this level, which is a rational expectation of a provider's network monitoring practices and capability. Thus, the definition the Commission adopted in 1994 in part 63, used through 2004, and proposed to incorporate into Part 4 in 2004, and does incorporate here, provides necessary and sufficient clarity. We note that Section 63.100(a)(6) had long been in force and that carriers should already be familiar with this definition. For example, we note Sprint's 2004 petition for reconsideration requesting that the Commission, *inter alia,* require reporting only in those scenarios defined by the "previous outage reporting rules, *see* 47 CFR 63.100(a)(6)." Regarding CenturyLink's concern regarding whether an airport has been deemed "important" by the FAA, we believe our narrowing the scope of airports covered by our rules resolves this issue, adding only that providers that serve airports must make themselves aware of the category of those airports (*i.e.,* we do not anticipate or expect the airport itself to notify providers as to the airport's FAA classification).

62. We note that commercial aviation is increasingly dependent on information systems that are not collocated with airport facilities and invite comment in the related *Further Notice* as to whether non-airport critical aviation information facilities should be eligible for outage reporting perhaps as enrollees in the previously mentioned TSP Levels 3 and 4.

4. Reporting Obligations of Satellite and Terrestrial Wireless Service Providers as to "Special Offices and Facilities"

63. In 2004, the Commission determined that because the critical communications infrastructure serving airports is landline-based, satellite and terrestrial wireless communications providers were exempt from reporting outages potentially affecting airports. CTIA, Cingular Wireless and Sprint each filed petitions arguing that wireless providers should be exempt from reporting outages pertaining to all other "special offices and facilities," on the grounds that the rationale for excluding wireless carriers from outage reporting for airports applies equally to all special offices and facilities, that is, that wireless carriers lacked dedicated access lines to all special offices and facilities. In the *Notice,* we asked whether, in spite of the continued growth in the use of wireless networks, we should extend the satellite and terrestrial wireless exemption to all "special offices and facilities."

64. Commenters on this issue all agree that the current exemption afforded satellite and terrestrial wireless providers with respect to airports ought to be retained, and that such providers further should be exempt from reporting outages potentially affecting all special offices and facilities. Sprint supports extending the wireless providers' exemption to all special offices and facilities, arguing that, as with airports, "the communications infrastructure serving other special offices and facilities remain primarily 'landline based,'" and that unless a wireless carrier provides a dedicated access line to a special office or facility, it has no way of knowing whether one of its phones was being used by personnel at such office or facility.

65. Although wireless service has become ubiquitous in many respects throughout the United States, we have not observed special offices and facilities adopting such service for their critical communications, and otherwise abandoning wireline-based communications. As CTIA points out, the Department of Defense (DoD) commented in our *Technology Transitions* proceeding that DoD and federal executive agencies continue to rely heavily on wireline TDM-based networks and services and would do so for the foreseeable future. We will, therefore, continue to exempt satellite and terrestrial wireless providers from reporting outages potentially affecting airports, and will extend that exemption to all special offices and facilities. To the extent our decision today responds affirmatively to the requests of CTIA, Cingular, and Sprint to exempt wireless carriers from being required to report outages potentially affecting all special offices and facilities, we grant their petitions.

E. Information Sharing

66. Section 4.2 of our rules provides that reports filed in NORS are presumed confidential, and thus withheld from routine public inspection. This presumption recognizes both the "likelihood of substantial competitive harm from disclosure of information in outage reports" and the Commission's concern that "the national defense and public safety goals that we seek to achieve by requiring these outage reports would be seriously undermined if we were to permit these reports to fall into the hands of terrorists who seek to cripple the nation's communications infrastructure." The Commission routinely shares NORS reports with the Office of Emergency Communications at the Department of Homeland Security (DHS), which may "provide information from those reports to such other governmental authorities as it may deem to be appropriate," but the Commission does not share NORS information directly with state governments. In 2009, the CPUC filed a petition requesting that the Commission amend

its rules to permit state agencies to directly access the NORS database.

67. The *Notice* proposed to grant state governments "read-only access to those portions of the NORS database that pertain to communications outages in their respective states," conditioned on a certification that each state "will keep the data confidential and that it has in place confidentiality protections at least equivalent to those set forth in the federal Freedom of Information Act (FOIA)." The Commission sought comment on this proposal, as well as whether states' use of NORS data should be restricted to activities relating to its "traditional role of protecting public health and safety" and, if so, what activities such a role would encompass. In addition, the Commission sough comment on whether information collected under part 4 should be shared directly with the National Coordinating Center for Communications (NCC), a government-industry initiative led by DHS representing 24 federal agencies and more than 50 private-sector communications and information technology companies.

68. Commenters generally support providing state and federal officials with direct access to NORS, as long as there are sufficient security and confidentiality protections to prevent disclosure to competitors or hostile parties. The National Association of Regulatory Utility Commissioners, for example, notes that it unanimously adopted a resolution in support of the CPUC Petition, adding that "[w]hile California filed the Petition on its own behalf, and some States do receive certain outage information directly from carriers, *all* States share the need for immediate, secure and confidential access to the service outage detail provided in NORS."

69. Commenters disagree, however, on many of the details of implementation for sharing information with state entities, including the nature and extent of confidentiality measures and whether the Commission should attach conditions to the use of information obtained from NORS. Service providers argue for a broad range of conditions such as: Limitations on the number and job description of state personnel with access to NORS; security training or nondisclosure agreements for such personnel; data breach notifications to the Commission, to affected service providers, or to both; tracking or auditing of states' use of NORS information; and loss of access or other penalties for states that fail to maintain confidentiality. Industry commenters also question whether a certification of confidentiality protections "at least equivalent to FOIA" would be an effective safeguard in light of variations in state open records laws and the tendency of some state courts to construe such laws in favor of disclosure. Consequently, several commenters urge the Commission to explore mechanisms other than FOIA and its state equivalents as a basis for stronger legal protections for NORS data.

70. Some commenters urge the Commission to preempt state open records laws to the extent they could allow disclosure of NORS information, while others suggest "a rule with language similar to the statutory language that Congress enacted to govern a federal agency's sharing of homeland security information with a state government." Commenters point to several other contexts in which the Commission has shared information on a confidential basis with state counterparts, such as the existing processes for sharing state-specific Form 477 data on broadband subscribership and numbering resources from the North American Numbering Plan Administration. But the record also reflects concerns that these models may be inadequate to provide states with real-time access to NORS data or to provide state-specific data on outages affecting multiple states. Intrado further suggests that outage information could not realistically be shared with states on a confidential basis without an extensive redesign of the NORS database and associated form fields.

71. States and service providers also dispute whether use of NORS data should be limited to the states' "traditional role of protecting public health and safety," a phrase that first appeared in the CPUC Petition but here receives support from industry commenters as a condition on states' access to NORS. AT&T, for example, comments that "the Commission should restrict state commissions' use of the NORS data to evaluating the cause of outages to monitor communications network functionality within a state." State governments generally agree that they should only receive information on outages within their geographic boundaries but oppose other limitations on their use of NORS data. Michigan, for example, asserts that "[r]estricting the information that states can access regarding service outages would obscure the true picture of the providers' services . . . rendering the reporting—and any conclusions drawn thereon—incomplete."

72. Commenters also disagree on the extent to which direct access to NORS data should replace state-level outage reporting requirements. Without routine access to NORS data, many states independently require communications providers to file network outage reports with their public utility commissions or similar agencies. Industry commenters argue that "sharing appropriate data with state agencies could minimize the burden on providers for filing multiple reports given that the content of some state outage reporting overlaps with Part 4 reporting," but also that "the Commission should condition a state's access to NORS data on the state's waiver or elimination of any independent outage reporting requirement imposed by state law." Intrado further contends that "[d]ual reporting is unnecessary, unduly expensive and inappropriate," and that "[n]ot every state needs access to NORS." State commissions tend to disagree, generally arguing that states should remain free to adopt their own independent requirements.

73. The record reflects broad agreement that state and federal partners would benefit from more direct access to NORS data, and we conclude that such a process would serve the public interest if implemented with appropriate and sufficient safeguards. But, with competitively sensitive information and critical communications infrastructure at stake, we also conclude that this process requires more careful consideration of details that may determine the long-term success and effectiveness of the NORS program. Accordingly, while we agree that other FCC processes may be helpful models in developing appropriate procedures for sharing NORS data, we are not persuaded that existing processes for information sharing can be replicated in the context of NORS without important refinements.

74. In light of the significant security and confidentiality concerns described above, as well as federalism concerns that may be inherent in any national coordination of outage reporting requirements, we find that the Commission's part 4 information sharing proposals raise a number of complex issues that warrant further consideration. We seek comment in the related *Further Notice* with respect to how NORS data from broadband providers could be properly shared with state and federal entities other than DHS, including instances where state law may prohibit information sharing. Furthermore, to assist the Commission in addressing these issues, we direct the Bureau to study these issues, and develop proposals for the Commission consideration regarding how NORS

filings and information collected from all part 4 providers could be shared in real time with state commissions, with other federal partners, and with the NCC, keeping in mind current information sharing privileges granted to DHS.

F. Cost-Benefit Analysis

In the *Notice* we provided estimates of the annual industry-wide cost of adoption of the proposed rules. In total, we estimated that industry-wide reporting costs would fall by $307,520 due to a net decrease of 1,922 reports per year. While several commenters argued that our per-report cost estimates were too low, only AT&T provided a revised quantitative estimate. AT&T argued that it spends approximately twelve hours to prepare and file outage reports, in contrast to our estimate of two hours. Although we are not convinced that twelve hours are necessary, we note that using AT&T's figure, the resulting decrease in costs would be six times our estimate, or $1,845,120. In either case, we conclude that the rule changes adopted in this *Report and Order* will have the overall effect of reducing reporting costs.

75. As to benefits, our part 4 rules enhancements will ensure the Commission receives the appropriate type and quality of outage and operational status information to allow us to continue to fulfill our statutory obligation to promote "safety of life and property" by protecting the nation's communications networks. The current part 4 outage reporting rules played a significant and well-documented role in the Commission's successful efforts to promote more reliable and resilient communications networks. The Commission's receipt of data on major transport facility outages, wireless outages, outages that significantly degrade communications to PSAPs, and outages affecting special offices and facilities will enable it to adapt this established practice to a wider cross-section of the critical communication infrastructure.

76. We further believe that the benefits of the adopted rules will substantially exceed the minimal costs expected to be imposed by some of these rules, and we expect that the combined effect of all these rules will be to reduce the costs imposed on affected parties. Outage reporting provides the Commission with critical data on communications reliability that it has no means of gathering on a consistent and reliable basis from any other source. Absent these rules, the Commission lacks adequate visibility into the reliability of major transport facilities and wireless communications infrastructure, and has inadequate visibility into degradations of special offices and facilities as well as communications to PSAPs. This lack of visibility hinders the Commission's ability to discharge its public safety responsibilities. The data gathered by these outage reports will permit Commission staff, working closely with providers and industry working groups, to identify and address systemic vulnerabilities. Such collaborative efforts have led to measurable improvements in network reliability and resiliency, and to the formulation of policies to promote more reliable and secure communications. Moreover, outage reports, particularly in the early stages of a communications disruption, provide critical situational awareness to the Commission that enable it to participate effectively in emergency response and service restoration efforts.

II. Order on Reconsideration

A. Airport Reporting Requirements

77. In January 2005, in response to the *2004 Part 4 Order,* Sprint filed a petition requesting that, among other issues, the Commission "clarify that wireline carriers are only required to report outages affecting airports when such outages 'disrupt[ ] 50% or more of the air traffic control lines or other FAA communications links' as was the case under the previous outage reporting rules, *see* 47 CFR 63.100(a)(6)." Sprint argues that in adopting the new part 4 rules, "[t]he Commission did not mention, let alone justify, doing away with the Section 63.100(a)(6) limitation that *carriers report only outages affecting the critical communications facilities serving airports*" and urges the Commission "to clarify that it had no intention of removing the Section 63.100(a)(6) language from Part 4 that limits reporting of airport outages to disruptions in communications being carried over critical infrastructure serving such airports, *i.e.,* air traffic control or other FAA communications links[,] and to restore such language to Section 4.5 of the rules."

78. As noted above, reports in this category generally have involved communications outages within the retail sections of an airport. A strict interpretation of current Section 4.5(c)—*i.e.* that "[a]ll outages that potentially affect communications for at least 30 minutes with any airport that qualifies as a 'special office and facility' . . . shall be reported,"—would have required providers to report outages that were not mission-critical, and which could represent a financial and administrative burden on those providers, with virtually no public safety benefit or public policy goal. Therefore, we amend Section 4.5(c) to clarify that carriers need only report disruptions of critical communications, which impact the airports covered by our rules. To the extent our decision today responds affirmatively to Sprint's request, we grant its request for clarification, which will be reflected in our ordering clause.

B. Reporting Obligations of Satellite and Terrestrial Wireless Service Providers

79. In 2004, the Commission exempted satellite and terrestrial wireless communications providers from reporting outages potentially affecting airports, on the grounds that the critical communications infrastructure serving those airports was landline-based. CTIA, Cingular Wireless, and Sprint filed petitions urging the Commission to exempt wireless providers from reporting outages pertaining to all other special offices and facilities, positing that the rationale for excluding wireless carriers from outage reporting for airports, *i.e.,* that critical communications were landline-based, applied as well to all special offices and facilities. In the *2015 Part 4 Notice,* we asked whether, in spite of the continued growth in the use of wireless networks, we should extend the satellite and terrestrial wireless exemption to all "special offices and facilities." CTIA and Sprint again urged that the exemption be extended. CTIA notes that, today as in 2004, wireless networks provide undifferentiated service to all end users, even with the growth of wireless telephone in the past decade. As a matter of practice, wireless providers do not assign dedicated access lines to specific end users, and therefore do not have dedicated access lines for the critical portions of any of the special offices and facilities. Sprint argues that, as with airports, the communications infrastructure serving all special offices and facilities remains primarily landline-based, and that unless a wireless carrier provides a dedicated access line to a special office or facility, it has no way of knowing whether one of its phones is being used by personnel at such an office or facility.

80. As previously noted, we will extend the wireless exemption for satellite and terrestrial wireless carriers to all special offices and facilities. To the extent our decision today responds affirmatively to the requests of CTIA, Cingular, and Sprint to exempt wireless carriers from being required to report outages potentially affecting all special offices and facilities, we grant their

requests, which will be reflected in our ordering clause.

III. Procedural Matters

A. Accessible Formats

81. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

B. Paperwork Reduction Act of 1995

82. The *Report and Order* contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. In this *Report and Order* and *Order on Reconsideration,* we have assessed the effects of updates to the part 4 outage reporting rules, and find that these updates does not have significant effects on business with fewer than 25 employees.

IV. Final Regulatory Flexibility Analysis

83. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rulemaking, Second Report and Order, and Order on Reconsideration. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. No comments were received. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Report and Order and Order on Reconsideration

84. In this *Report and Order,* we take specific steps to improve our current part 4 rules by adopting various proposals made in a Notice of Proposed Rulemaking (*Notice*) adopted in 2015. These specific amendments stem from our experience with outage reporting over the past ten years, and will enhance the information we receive on outages for services already covered in part 4. In this *Report and Order,* we adopt the following changes to our part 4 outage reporting rules:

- Update the reporting metric and threshold for communication disruptions impacting major transport facilities from a DS3-based to OC3-based standard, and reduce the reporting window for simplex events (transmission line disruptions) from five days to four days;
- update the reporting of wireless outages by adopting a standardized method to calculate the number of users "potentially affected" in an outage, and clarify that, when an outage affects only some 911 calling centers, or PSAPs, served by a mobile switching center, wireless providers may utilize their own identifiable scheme to allocate the number of potentially affected users so long as the allocation reflects the relative size of the affected PSAP(s);
- find that a "loss of communications" to a PSAP occurs when there is a network malfunction or higher-level issue that significantly degrades or prevents 911 calls from being completed to PSAPs, including when 80 percent or more of a provider's trunks serving a PSAP become disabled;
- update the rules regarding reporting of outages affecting "special offices and facilities" by (i) extending the reporting obligation to high-level enrollees in the Telecommunications Service Priority program, (ii) eliminating outdated and non-applicable rules, (iii) narrowing the types of airports that are considered "special offices and facilities," and (iv) limiting outage reporting from airports to critical communications only; and
- conclude that direct access to NORS by our state and federal partners is in the public interest, but determine that further consideration is warranted to ensure that the process includes adequate safeguards to maintain the security and confidentiality of sensitive information, and accordingly direct the Public Safety and Homeland Security Bureau (Bureau) to study these issues and develop recommendations for the successful implementation of our information-sharing proposals.

85. The *Order on Reconsideration* limits outage reporting for events affecting airports to those outages that impact airport critical communications, and exempts satellite and terrestrial wireless carriers from reporting outages affecting all "special offices and facilities," extending the exemption previously limited to airports.

B. Legal Basis

86. The legal bases for the rule changes adopted in this *Report and Order* are contained in Sections 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a-1, and 615c of the Communications Act of 1934, as amended, and Section 706 of the Communications Act of 1996, 47 U.S.C. 151, 154(i)–(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, 615c, and 1302.

C. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

87. The IRFA solicited comment on the impact of the proposed rules to small businesses, as required by the RFA. While no comments were submitted specifically in response to the IRFA, a few commenters express concerns about the estimated costs for reporting. NTCA urges the Commission to consider small rural service providers and their unique circumstances. Other commenters argue that we underestimate the time burdens associated with filing NORS reports. We maintain that the reports cost an estimated $160 to file, and that other costs associated with "setting up and implementing a monitoring regime" are routine business costs independent of our reporting requirements.

D. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

88. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by rules such as those adopted herein. The RFA generally defines the term "small entity" the same as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

89. Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there

are a total of approximately 28.2 million small businesses, according to the SBA. In addition, a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,506 entities may qualify as "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small. We believe that the Report and Order and Order on Reconsideration may affect the following small entities, as further discussed in the document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf:* (1) Wireline providers, including incumbent Local Exchange Carriers (incumbent LECs); and interexchange carriers; (2) Wireless Providers-Fixed and Mobile, including wireless telecommunications carriers (except satellite); (3) Satellite Service Providers, including satellite telecommunications providers and all telecommunications providers; (4) Cable Service Providers, including cable companies and systems and cable system operators; and (5) All Other Telecommunications.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

90. The rules adopted in the *Report and Order* and *Order on Reconsideration* require telecommunications providers to report those outages that meet specified NORS outage reporting threshold criteria, now determined by a variety of factors, including the number of end users potentially affected by the outage and the duration of the outage. Providers must now comply with an updated OC3 metric for major transport facilities; adjust calculations for determining when there has been a "loss of communications" such that reporting is required; and report outages affecting as Level 1 and 2 enrollees of the Telecommunication Service Priority (TSP) program as "special offices and facilities." The document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf,* discusses the requirements in full.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

91. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities."

92. The new and updated reporting requirements are minimally necessary to assure that we receive adequate information to perform our statutory responsibilities with respect to the reliability of telecommunications and their infrastructures. The Commission considered other possible proposals and sought comment on the reporting thresholds and the analysis presented. Ultimately, we believe that outage reporting triggers are set sufficiently high as to make it unlikely that small businesses would be impacted significantly by the final rules. In fact, we anticipate that in many instances, small businesses will find their burden decreased by the new reporting thresholds. In the Commission's experience administering NORS, small companies only rarely experience outages that meet the NORS outage reporting threshold criteria, and we expect that small companies will only be slightly impacted by our rule changes adopted today. Telecommunications providers already file required notifications and reports for internal purposes. We believe the only burden associated with the reporting requirements contained here will be the time required to complete any additional notifications and reports following the proposed changes.

V. Congressional Review Act

93. The Commission will send a copy of this *Report and Order* and *Order on Reconsideration* to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

VI. Ordering Clauses

94. *Accordingly it is ordered* that, pursuant to the authority contained in Sections 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, and 615c of the Communications Act of 1934, as amended, and Section 706 of the Communications Act of 1996, 47 U.S.C. 151, 154(i)–(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, 615c, and 1302, this *Report and Order* in PS Docket 15–80 and 11–82 is ADOPTED.

95. *It is further ordered* that the Commission's Public Safety and Homeland Security Bureau *shall develop and recommend* to the Commission proposed rules, published elsewhere in this **Federal Register,** for NORS information sharing in accordance with its delegated authority and this Report and Order.

List of Subjects in 47 CFR Part 4

Airports, Communications common carriers, Communications equipment, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 4 as follows:

PART 4—DISRUPTIONS TO COMMUNICATIONS

■ 1. The authority citation for part 4 is revised to read as follows:

Authority: Sections 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, and 615c of Pub. L. 73–416, 48 Stat. 1064, as amended, and section 706 of Pub. L. 104–104, 110 Stat. 56; 47 U.S.C. 151, 154(i)–(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, 615c, and 1302, unless otherwise noted.

■ 2. Section 4.5 is amended by revising paragraphs (b) and (c) as follows and removing and reserving paragraph (d):

§ 4.5 Definitions of outage, special offices and facilities, and 911 special facilities.

* * * * *

(b) *Special offices and facilities* are defined as entities enrolled in the Telecommunications Service Priority (TSP) Program at priority Levels 1 and 2, which may include, but are not limited to, major military installations, key government facilities, nuclear power plants, and those airports that are listed as current primary (PR) airports in the FAA's National Plan of Integrated Airports Systems (NPIAS) (as issued at least one calendar year prior to the outage).

(c) A critical communications outage that potentially affects an airport is defined as an outage that:

(1) Disrupts 50 percent or more of the air traffic control links or other FAA communications links to any airport;

(2) Has caused an Air Route Traffic Control Center (ARTCC) or airport to lose its radar;

(3) Causes a loss of both primary and backup facilities at any ARTCC or airport;

(4) Affects an ARTCC or airport that is deemed important by the FAA as indicated by FAA inquiry to the provider's management personnel; or

(5) Has affected any ARTCC or airport and that has received any media attention of which the communications provider's reporting personnel are aware.

(d) [Reserved]

* * * * *

■ 3. Section 4.7 is amended by revising paragraphs (d) and (e)(2) to read as follows:

§ 4.7 Definition of metrics used to determine the general outage-reporting threshold criteria.

* * * * *

(d) *Optical Carrier 3 (OC3) minutes* are defined as the mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of previously operating OC3 circuits or their equivalents that were affected by the outage.

(e) * * *

(2) The mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of end users potentially affected by the outage, for all other forms of communications. For interconnected VoIP service providers to mobile users, the number of potentially affected users should be determined by multiplying the simultaneous call capacity of the affected equipment by a concentration ratio of 8.

* * * * *

■ 4. Section 4.9 is amended by revising paragraph (a)(2), the second sentence in paragraph (a)(4), revising the second and sixth sentence in paragraph (b), revising paragraph (e), (f)(2) and the second sentence in paragraph (f)(4) to read as follows:

§ 4.9 Outage reporting requirements—threshold criteria.

(a) * * *

(2) Affects at least 667 OC3 minutes;

* * * * *

(4) * * * (OC3 minutes and user minutes are defined in paragraphs (d) and (e) of § 4.7.) * * *

* * * * *

(b) * * * Providers must report IXC and LEC tandem outages of at least 30 minutes duration in which at least 90,000 calls are blocked or at least 667 OC3-minutes are lost.* * * (OC3 minutes are defined in paragraph (d) of § 4.7.) * * *

* * * * *

(e)(1) All wireless service providers shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration:

(i) Of a Mobile Switching Center (MSC);

(ii) That potentially affects at least 900,000 user minutes of either telephony and associated data (2nd generation or lower) service or paging service;

(iii) That affects at least 667 OC3 minutes (as defined in § 4.7);

(iv) That potentially affects any special offices and facilities (in accordance with paragraphs (a) through (d) of § 4.5) other than airports through direct service facility agreements; or

(v) That potentially affects a 911 special facility (as defined in paragraph (e) of § 4.5), in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 911 facility as the provider's contact person for communications outages at that facility, and they shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on callers to that facility.

(2) In determining the number of users potentially affected by a failure of a switch, a wireless provider must multiply the number of macro cell sites disabled in the outage by the average number of users served per site, which is calculated as the total number of users for the provider divided by the total number of the provider's macro cell sites.

(3) For providers of paging service only, a notification must be submitted if the failure of a switch for at least 30 minutes duration potentially affects at least 900,000 user-minutes.

(4) Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission.

(5) The Notification and Initial and Final reports shall comply with the requirements of § 4.11.

(f) * * *

(2) Affects at least 667 OC3 minutes;

* * * * *

(4) * * * (OC3 minutes and user minutes are defined in paragraphs (d) and (e) of § 4.7.) * * *

* * * * *

§ 4.13 [Removed and Reserved]

■ 5. Section 4.13 is removed and reserved.

[FR Doc. 2016–16274 Filed 7–8–16; 11:15 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412–2517–02]

RIN 0648–XE716

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2016 Commercial Accountability Measure and Closure for Gulf of Mexico Greater Amberjack

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the Gulf of Mexico (Gulf) reef fish fishery for the 2016 fishing year through this temporary rule. NMFS projects commercial landings for greater amberjack, will reach the commercial annual catch target (ACT) by July 17, 2016. Therefore, NMFS closes the commercial sector for greater amberjack in the Gulf on July 17, 2016, and it will remain closed until the start of the next fishing season on January 1, 2017. This closure is necessary to protect the Gulf greater amberjack resource.

DATES: This rule is effective 12:01 a.m., local time, July 17, 2016, until 12:01 a.m., local time, January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *rich.malinowski@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the reef fish fishery of the Gulf, which includes greater amberjack, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

The commercial annual catch limit (ACL) for Gulf greater amberjack is 464,400 lb (210,648 kg), as specified in 50 CFR 622.41(a)(1)(iii). The commercial ACT (equivalent to the commercial quota) is 394,740 lb (179,051 kg), as specified in 50 CFR 622.39(a)(1)(v).

Under 50 CFR 622.41(a)(1)(i), NMFS is required to close the commercial sector for greater amberjack when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the **Federal Register**. NMFS has determined the commercial quota will be reached by July 17, 2016. Accordingly, the commercial sector for Gulf greater amberjack is closed effective 12:01 a.m., local time, July 17, 2016, until 12:01 a.m., local time, January 1, 2017.

The operator of a vessel with a valid commercial vessel permit for Gulf reef fish with greater amberjack on board must have landed, bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, July 17, 2016. During the commercial closure, the bag and possession limits specified in 50 CFR 622.38(b)(1) apply to all harvest or possession of greater amberjack in or from the Gulf exclusive economic zone (EEZ). However, from June 1 through July 31 each year, the recreational sector for greater amberjack is also closed, as specified in 50 CFR 622.34(c), and during this recreational closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero. During the commercial closure, the sale or purchase of greater amberjack taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 17, 2016, and were held in cold storage by a dealer or processor. The commercial sector for greater amberjack will reopen on January 1, 2017, the beginning of the 2017 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf greater amberjack and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect greater amberjack. The capacity of the commercial sector allows for rapid harvest of the commercial quota, and prior notice and opportunity for public comment would require time and would potentially result in harvest exceeding the commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 6, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–16401 Filed 7–7–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 133
Tuesday, July 12, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7419; Directorate Identifier 2015–NM–189–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 and 787–9 airplanes. This proposed AD was prompted by a report that some inboard and outboard trailing edge flap rotary actuators may have been assembled with an incorrect no-back brake rotor-stator stack sequence during manufacturing. This proposed AD would require an inspection of the inboard and outboard flap trailing edge rotary actuator for any discrepant rotary actuator. For discrepant rotary actuators, this proposed AD would require replacing the rotary actuator, or determining the flight cycles on the rotary actuator and doing related investigative and corrective actions if necessary. We are proposing this AD to detect and replace rotary actuators having incorrect assembly, which could cause accelerated unit wear that will eventually reduce braking performance. This degradation could lead to loss of no-back brake function and reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by August 26, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7419.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7419; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Fnu Winarto, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6659; fax: 425–917–6590; email: *fnu.winarto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7419; Directorate Identifier 2015–NM–189–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received a report that some inboard and outboard trailing edge flap rotary actuators may have been assembled with an incorrect no-back brake rotor-stator stack sequence during manufacturing. This condition, if not corrected, could result in accelerated unit wear that will eventually reduce braking performance. This degradation could lead to loss of no-back brake function and reduced controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin B787–81205–SB270032–00, Issue 001, dated November 3, 2015. The service information describes procedures for an inspection of the inboard and outboard flap rotary actuator for any discrepant rotary actuator, and procedures for replacing the rotary actuator, or determining the flight cycles on the rotary actuator and applicable related investigative and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7419.

"Related investigative actions" are follow-on actions that (1) are related to the primary action, and (2) are actions that further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

"Corrective actions" are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85	$0	$85	$425

We estimate the following costs to do any necessary on-condition actions that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Check to determine flight cycles on the rotary actuator	1 work-hour × $85 per hour = $85	$0	$85
Functional test	2 work-hours × $85 per hour = $170	0	170
Replacement	2 work-hours × $85 per hour = $170	0	170

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–7419; Directorate Identifier 2015–NM–189–AD.

(a) Comments Due Date

We must receive comments by August 26, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 and 787–9 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB270032–00, Issue 001, dated November 3, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Control Systems.

(e) Unsafe Condition

This AD was prompted by a report that some inboard and outboard trailing edge flap rotary actuators may have been assembled with an incorrect no-back brake rotor-stator stack sequence during manufacturing. We are issuing this AD to detect and replace rotary actuators having incorrect assembly, which could cause accelerated unit wear that will eventually reduce braking performance. This degradation could lead to loss of no-back brake function and reduced controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Other Actions

Within 60 months after the effective date of this AD, do an inspection of the inboard and outboard trailing edge flap rotary actuator for any discrepant rotary actuator, in accordance with the Accomplishment

Instructions of Boeing Alert Service Bulletin B787–81205–SB270032–00, Issue 001, dated November 3, 2015. If any discrepant rotary actuator is found, within 60 months after the effective date of this AD, do the actions specified in paragraph (g)(1) or (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin B787–81205–SB270032–00, Issue 001, dated November 3, 2015.

(1) Replace the discrepant rotary actuator.

(2) Check the maintenance records to determine the flight cycles of each discrepant rotary actuator and, within 60 months after the effective date of this AD, do all applicable related investigative and corrective actions.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (i)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (h)(4)(i) and (h)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(i) Related Information

(1) For more information about this AD, contact Fnu Winarto, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6659; fax: 425–917–6590; email: *fnu.winarto@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 28, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–16323 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–6544; Directorate Identifier 2014–NM–198–AD]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aeronautics (Formerly Known as Saab AB, Saab Aerosystems) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) and SAAB 340B airplanes. The NPRM proposed to supersede AD 2012–24–06. AD 2012–24–06 currently requires replacing the stall warning computer (SWC) with a new SWC that provides an artificial stall warning in icing conditions, and modifying the airplane for the replacement of the SWC. The NPRM was prompted by a determination that airplanes with certain modifications were excluded from the applicability in AD 2012–24–06, and are affected by the identified unsafe condition; and the SWC required by AD 2012–24–06 contained erroneous logic. This action revises the NPRM by reducing the compliance time for replacing the SWCs. We are proposing this supplemental NPRM (SNPRM) to prevent natural stall events during operation in icing conditions, which could result in loss of control of the airplane. Since this compliance time reduction imposes an additional burden to operators, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by August 26, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this SNPRM, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6544; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2015–6544; Directorate Identifier 2014–NM–198–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) and SAAB 340B airplanes. The NPRM published in the **Federal Register** on December 17, 2015 (80 FR 78699) ("the NPRM"). The NPRM proposed to supersede AD 2012–24–06, Amendment 39–17276 (77 FR 73279, December 10, 2012) ("AD 2012–24–06"). AD 2012–24–06 currently requires replacing the SWC with a new SWC that provides an artificial stall warning in icing conditions, and modifying the airplane for the replacement of the SWC. The NPRM was prompted by a determination that airplanes with certain modifications were excluded from the applicability in AD 2012–24–06, and are affected by the identified unsafe condition; and the SWC required by AD 2012–24–06 contained erroneous logic. The NPRM proposed to add airplanes to the applicability, and would add requirements to replace the existing SWCs with new, improved SWCs and modify the airplane for the new replacement of the SWC.

Actions Since Previous NPRM Was Issued

Since we issued the NPRM, we have determined that the compliance time for replacing the SWCs must be reduced to ensure the unsafe condition is addressed prior to the beginning of icing season after publication of the AD. We have determined that parts are available to support the reduced compliance time.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0218, dated September 29, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition on certain Saab AB, Saab Aeronautics Model 340A (SAAB/SF340A) and SAAB 340B airplanes. The MCAI states:

> A few natural stall events, specifically when operating in icing conditions, have been experienced on SAAB 340 series aeroplanes, without receiving a prior stall warning.
>
> This condition, if not corrected, could result in loss of control of the aeroplane.
>
> To address this potential unsafe condition, SAAB developed a modified stall warning system, incorporating improved stall warning logic, and issued Service Bulletin (SB) 340–27–098 and SB 340–27–099, providing instructions to replace the Stall Warning Computer (SWC) with a new SWC, and instructions to activate the new SWC. The new system included stall warning curves optimized for operation in icing conditions, which are activated by selection of Engine Anti-Ice.
>
> Consequently, EASA issued AD 2011–0219 [*http://ad.easa.europa.eu/ad/2011-0219*, which corresponds to FAA AD 2012–24–06] to require installation of the improved SWC.
>
> After that [EASA] AD was issued, in-service experience with the improved stall warning system revealed cases of premature stall warning activation during the take-off phase. In numerous recorded cases, the onset of stall warning occurred without the 6 minute delay after weight off wheels.
>
> This condition, if not corrected, could lead to premature stick shaker activation and consequent increase in pilot workload during the take-off phase, possibly resulting in reduced control of the aeroplane.
>
> To correct this unsafe condition, EASA issued AD 2013–0254 [*http://ad.easa.europa.eu/ad/2013-0254*] retaining the requirements of EASA AD 2011–0219, which was superseded, to require deactivation of the ice speed curves in the improved SWC on SAAB 340 aeroplanes, in accordance with SAAB SB 340–27–116.
>
> Since EASA AD 2013–0254 was issued, SAAB developed a technical solution to eliminate the premature activation of the stall warning ice curves and issued SB 340–27–120 (modification of the existing Stall Warning System installation), SB 340–27–121 (activation of improved SWC for aeroplanes with a basic wing tip) and SB 340–27–122 (activation of improved SWC for aeroplanes with an extended wing tip). SAAB SB 340–27–120 provides modification and installation instructions valid for pre- and post-SB 340–27–097, 340–27–098, SB 340–27–099 and SB 340–27–116 aeroplanes. For aeroplanes modified in accordance with SAAB AB mod. No. 2650 and/or mod. No. 2859 which are no longer registered in Canada, SAAB AB issued SAAB AB SB 340–27–109 to provide modification and installation instructions to remove the ice speed curve function.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2013–0254, which is superseded, and requires modification of the Stall Warning and Identification System and replacement of the SWC with an improved unit.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6544.

Related Service Information Under 1 CFR Part 51

Saab AB, Saab Aeronautics has issued the following service information:

- Saab Service Bulletin 340–27–109, dated April 14, 2014.
- Saab Service Bulletin 340–27–116, dated October 18, 2013.
- Saab Service Bulletin 340–27–120, dated July 11, 2014.
- Saab Service Bulletin 340–27–121, dated July 11, 2014.
- Saab Service Bulletin 340–27–122, dated July 11, 2014.

The service information describes procedures for deactivating the stall warning speed curves in the SWCs for certain airplanes; replacing the existing SWCs with new, improved SWCs; and modifying the airplane for the new replacement of the SWC. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Comments

We gave the public the opportunity to participate in developing this proposed AD. We considered the comments received.

Request To Reduce Compliance Time

Saab asked that the compliance time in paragraph (h) of the proposed AD (in the NPRM) for replacement of the SWC be reduced from 12 to 3 months. Saab stated that a global alternative method of compliance (AMOC) was issued by the FAA on September 4, 2014, with a compliance time of 18 months; therefore, operators should have scheduled replacement of the SWCs after the AMOC was issued. Saab also stated that the MCAI required compliance within 18 months after September 29, 2014, and that time has expired. Saab added that reducing the compliance time to 3 months is more in line with the MCAI. In addition, Saab noted that all operators have ordered replacement SWCs, and Saab has those parts in stock and ready for delivery.

We agree with the commenter's request to reduce the compliance time, for the reasons provided. We also note that reducing the compliance time will ensure that new SWCs are installed before the icing season begins. We have changed the compliance time in paragraph (h) of this proposed AD from 12 to 3 months accordingly.

Request To Correct Email Address

Saab asked that the Saab email address in the proposed AD (in the NPRM) be corrected to specify the following: *saab340.techsupport@saabgroup.com.*

We agree with the commenter's request. The email address for Model SAAB 2000 airplanes was inadvertently cited in the NPRM. We have corrected the address in the **ADDRESSES** section and in paragraph (l)(2) of this proposed AD.

Request To Use Later Revisions of Service Information

Silver Airways asked if we could include subsequent revisions of the referenced service information for AD 2012–24–06.

We do not agree with the commenter's request because this proposed AD does not require the service information referenced in AD 2012–24–06. This proposed AD does refer to the latest available service information for the proposed actions. Referring to a specific service bulletin in an AD and using the phrase "or later FAA-approved revisions" violates Office of the Federal Register regulations for approving materials that are incorporated by reference. However, operators may request approval to use a later revision of the referenced service information as an AMOC under the provisions of paragraph (k)(1) of this proposed AD. We have not changed this final rule regarding this issue.

FAA's Determination and Requirements of This SNPRM

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Certain changes described above expand the scope of the NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Costs of Compliance

We estimate that this SNPRM affects 105 airplanes of U.S. registry.

The actions that are required by AD 2012–24–06, and retained in this SNPRM, take about 78 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $33,000 per product. Based on these figures, the estimated cost of the actions that are required by AD 2012–24–06 is $39,630 per product.

The new requirement of this SNPRM adds no additional economic burden.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–24–06, Amendment 39–17276 (77 FR 73279, December 10, 2012), and adding the following new AD:

Saab AB, Saab Aeronautics: Docket No. FAA–2015–6544; Directorate Identifier 2014–NM–198–AD.

(a) Comments Due Date

We must receive comments by August 26, 2016.

(b) Affected ADs

This AD replaces AD 2012–24–06, Amendment 39–17276 (77 FR 73279, December 10, 2012) ("AD 2012–24–06").

(c) Applicability

This AD applies to Saab AB, Saab Aeronautics (formerly known as Saab AB, Saab Aerosystems) Model 340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 340A (SAAB/SF340A) airplanes, serial numbers 004 through 159 inclusive.

(2) Model SAAB 340B airplanes, serial numbers 160 through 459 inclusive, except serial numbers 170, 342, 362, 363, 367, 372, 379, 385, 395, 405, 409, 431, 441, and 455.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by a determination that airplanes with certain modifications were excluded from the applicability in AD 2012–24–06, and are affected by the identified unsafe condition; and the stall warning computer (SWC) required by AD 2012–24–06 contained erroneous logic. We are issuing this AD to prevent natural stall events during operation in icing conditions, which could result in loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Deactivation of Stall Speed Curves

For airplanes identified in paragraphs (g)(1) and (g)(2) of this AD: Within 30 days after the effective date of this AD, do the deactivation specified in paragraph (g)(1) or (g)(2) of this AD, as applicable to airplane configuration, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–116, dated October 18, 2013.

(1) For airplanes with a basic wing tip that has been modified using Saab Service Bulletin 340–27–098: Deactivate the stall speed curves in the SWC having part number (P/N) 0020AK6.

(2) For airplanes with an extended wing tip that has been modified using Saab Service Bulletin 340–27–099: Deactivate the stall speed curves in the SWC having P/N 0020AK7.

(h) Replacement of SWCs

Within 3 months after the effective date of this AD: Do the replacement specified in paragraph (h)(1) or (h)(2) of this AD, as applicable.

(1) For airplanes with basic wing tips: Replace all SWCs with new, improved SWCs having P/N 0020AK6–1, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–121, dated July 11, 2014.

(2) For airplanes with extended wing tips: Replace all SWCs with new, improved SWCs having P/N 0020AK7–1, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–122, dated July 11, 2014.

(i) Concurrent Modification

Before or concurrently with the accomplishment of the applicable requirements of paragraph (h) of this AD, do the actions specified in paragraph (i)(1) or (i)(2) of this AD, as applicable to airplane configuration.

(1) For airplanes on which either Saab AB Mod No. 2650 or Mod No. 2859 is not installed: Modify the stall warning and identification system, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–120, dated July 11, 2014.

(2) For airplanes on which either Saab AB Mod No. 2650 or Mod No. 2859 is installed, or on which both mods are installed: Modify the stall warning and identification system, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–109, dated April 14, 2014.

(j) Parts Installation Prohibitions

After the replacement required by paragraph (h) of this AD, no person may install any SWC having P/N 0020AK, 0020AK1, 0020AK2, 0020AK4, 0020AK6, 0020AK7, or 0020AK3 MOD 1, on any airplane.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Saab AB, Saab Aeronautics' EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0218, dated September 29, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–6544.

(2) For service information identified in this AD, contact Saab AB, Saab Aeronautics, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab340.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 23, 2016.

Dorr M. Anderson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–15927 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7426; Directorate Identifier 2015–NM–199–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–100, –200, and –200C series airplanes. This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This proposed AD would require repetitive detailed, high frequency eddy current (HFEC), and ultrasonic inspections of the center section rear spar upper clevis lugs and horizontal stabilizer rear spar upper lugs, as applicable, for any cracking, and related investigative and corrective actions if necessary. For certain airplanes, this proposed AD would require replacement of the center section rear spar upper chord with a new part and a serviceable center section assembly. This proposed AD would also require repetitive HFEC and fluorescent dye penetrant inspections of the center section for cracking of the front and rear spar upper clevis lugs or horizontal stabilizer front and rear spar upper lugs, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct cracking in the rear spar upper clevis lugs of the center section, and in the rear spar upper lugs of the horizontal stabilizer which could result in the loss of structural integrity and controllability of the airplane.

DATES: We must receive comments on this proposed AD by August 26, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7426.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7426; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Payman Soltani, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *Payman.Soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7426; Directorate Identifier 2015–NM–199–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

As described in FAA Advisory Circular 120–104 (*http://www.faa.gov/documentLibrary/media/Advisory_Circular/120-104.pdf*), several programs have been developed to support initiatives that will ensure the continued airworthiness of aging airplane structure. The last element of those initiatives is the requirement to establish a LOV of the engineering data that support the structural maintenance program under 14 CFR 26.21. This proposed AD is the result of an assessment of the previously established programs by the DAH during the process of establishing the LOV for the affected airplanes. The actions specified in this proposed AD are necessary to complete certain programs to ensure the continued airworthiness of aging airplane structure and to support an airplane reaching its LOV.

This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its LOV of the engineering data that support the established structural maintenance program. An operator detected a cracked center section at the rear spar upper chord clevis lug. This condition, if not corrected, could result in cracking in the rear spar clevis lugs of the horizontal stabilizer center section, which could result in loss of structural integrity and controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015. The service information describes procedures for repetitive detailed, HFEC, and ultrasonic inspections of the center section rear spar upper clevis lugs and rear spar upper lugs of the horizontal stabilizer; HFEC and fluorescent dye penetrant inspections for cracking in the front and rear spar upper clevis lugs of the center section and the front and rear spar upper lugs of the horizontal stabilizer. For certain airplanes, the service information describes procedures for replacement of the center section rear spar upper chord with a new part and replacing the center section with a serviceable center section assembly, or installing bushings and sleeves as applicable. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between This Proposed AD and the Service Information." For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7426.

The phrase "related investigative actions" is used in this NPRM. Related investigative actions are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase "corrective actions" is also used in this NPRM. Corrective actions are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies to contact the manufacturer for certain instructions, but this proposed AD would require accomplishment of repair methods, modification deviations, and alteration deviations in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Where Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies a compliance time or repeat interval as "Horizontal Stabilizer Center Section flight cycles" or "Horizontal Stabilizer flight cycles," this AD requires compliance for the corresponding time or repeat interval in airplane flight cycles.

Costs of Compliance

We estimate that this proposed AD affects 84 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive detailed, HFEC, and ultrasonic inspections.	9 work-hours × $85 per hour = $765 per inspection cycle.	$0	$765 per inspection cycle.	$64,260 per inspection cycle.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive HFEC and fluorescent dye penetrant inspections.	118 work-hours × $85 per hour = $10,030 per inspection cycle.	0	$10,030 per inspection cycle.	$842,520 per inspection cycle.
Replacement	Up to 252 work-hours × $85 per hour = $21,420 per inspection cycle.	25,000	Up to $46,420 per inspection cycle.	Up to $3,899,280 per inspection cycle.

We estimate the following costs to do any necessary inspections, repairs, and replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these inspections, repairs, and replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Bolt and Bushing Removal/Inspection, Fabrication, and Installation.	101 work-hours × $85 per hour = $8,585	$0	$8,585.
Repair and replacement	Up to 252 work-hours × $85 per hour = $21,420 per inspection cycle.	25,000	Up to $46,420 per inspection cycle.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–7426; Directorate Identifier 2015–NM–199–AD.

(a) Comments Due Date

We must receive comments by August 26, 2016.

(b) Affected ADs

This AD affects AD 84–23–05, Amendment 39–4949 (49 FR 45744, November 20, 1984); and AD 86–12–05, Amendment 39–5321 (51 FR 18771, May 22, 1986).

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, and –200C series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This proposed AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to detect and correct cracking in the rear spar upper clevis lugs of the center section, and in the rear spar upper lugs of the horizontal stabilizer which could result in the loss of structural integrity and controllability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspections, Related Investigative and Corrective Actions (Service Information Tables 1 and 3)

At the applicable time specified in table 1 or table 3 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do detailed, high frequency eddy current (HFEC), and ultrasonic inspections of the center section rear spar upper clevis lugs for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 1 or table 3 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(h) Replacement (Service Information Table 1)

For airplanes identified as Group 1, Configuration 1, in Boeing Alert Service

Bulletin 737–55A1033, Revision 2, dated August 7, 2015: At the applicable time specified in table 1 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, replace the center section rear upper chord with a new part or replace the center section with a serviceable center section assembly, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(i) Repetitive Post-Replacement Inspections, Related Investigative and Corrective Actions (Service Information Table 2)

For airplanes identified as Group 1, Configuration 1, in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, with a new or serviceable 0.932-inch-thick center section rear spar upper chord: At the applicable time specified in table 2 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, do detailed, HFEC, and ultrasonic inspections of the center section rear spar upper chord clevis lugs for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 2 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(j) Post-Replacement Inspections, Related Investigative and Corrective Actions (Service Information Table 4)

For airplanes on which the center section rear spar upper chord was last replaced with a new part or serviceable part: Within the applicable times specified in table 4 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, do detailed, HFEC, and ultrasonic inspections of the center section rear spar upper chord clevis lugs for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 4 of 1.E., "Compliance" of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(k) Repetitive Inspections, Related Investigative and Corrective Actions of the Horizontal Stabilizer (Service Information Table 5)

Within the applicable time specified in table 5 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, do detailed, HFEC, and ultrasonic inspections of the rear spar upper lugs of the horizontal stabilizer for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 5 of 1.E., "Compliance" of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(l) Post Replacement Inspections, Related Investigative and Corrective Actions (Service Information Table 6)

For airplanes with a replaced horizontal stabilizer with a new or serviceable part, within the applicable times specified in table 6 of 1.E., "Compliance" of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do a detailed, HFEC, and ultrasonic inspection of the rear spar upper lugs of the horizontal stabilizer for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 6 of 1.E., "Compliance" of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(m) Scheduled Inspections, Related Investigative and Corrective Actions (Service Information Table 7)

Within the applicable times specified in table 7 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do HFEC and fluorescent dye penetrant inspections for cracking in the front and rear spar upper clevis lugs of the center section and front and rear spar upper lugs of the horizontal stabilizer, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 7 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(n) Post Scheduled Inspections, Related Investigative and Corrective Actions (Service Information Table 8)

For airplanes on which the center section rear spar upper chord or horizontal stabilizer rear spar upper chord has been replaced: Within the applicable time specified in table 8 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do HFEC and fluorescent dye penetrant inspections for cracking in the front and rear spar upper clevis lugs of the center section or front and rear spar upper lugs of the horizontal stabilizer, as applicable, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 8 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(o) Exceptions to the Service Information: Compliance Times

(1) Where Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies a compliance time "after the Revision 2 date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies a compliance time or repeat interval as "Horizontal Stabilizer Center Section flight cycles" or "Horizontal Stabilizer flight cycles," this AD requires compliance for the corresponding time or repeat interval in airplane flight cycles.

(p) Exception to the Service Information: Repair Compliance Method

If any cracking of the lug is found during any inspection required by this AD, and Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies to contact Boeing for appropriate action: Before further flight, repair the lug using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(q) Terminating Actions

(1) For Model 737–100, –200, and –200C series airplanes: Accomplishment of the inspections specified in paragraph (g) of this AD terminates the requirements of paragraph A. of AD 84–23–05, Amendment 39–4949 (49 FR 45744, November 20, 1984).

(2) For Model 737–200 and –200C series airplanes: Accomplishment of the inspections specified in paragraph (m) and (n) of this AD terminates the requirements of paragraphs A. and B. of AD 86–12–05, Amendment 39–5321 (51 FR 18771, May 22, 1986).

(r) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the

attention of the person identified in paragraph (s)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane and the approval must specifically refer to this AD.

(s) Related Information

(1) For more information about this AD, contact Payman Soltani, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *Payman.Soltani@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 28, 2016.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–16322 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404, 405 and 416

[Docket No. SSA–2014–0052]

RIN 0960–AH71

Ensuring Program Uniformity at the Hearing and Appeals Council Levels of the Administrative Review Process

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise our rules so that more of our procedures at the administrative law judge (ALJ) and Appeals Council levels of our administrative review process are consistent nationwide. We anticipate that these nationally consistent procedures will enable us to administer our disability programs more efficiently and better serve the public.

DATES: To ensure that your comments are considered, we must receive them no later than August 11, 2016.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2014–0052 so that we may associate your comments with the correct rule.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the "Search" function to find docket number SSA–2014–0052. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 3100 West High Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Maren Weight, Office of Appellate Operations, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041, (703) 605–7100. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION: We propose revisions to:

(1) The time-frame for notifying claimants of a hearing date;

(2) the information in our hearing notices;

(3) the period when we require claimants to inform us about or submit written evidence, written statements, objections to the issues, and subpoena requests;

(4) what constitutes the official record; and

(5) the manner in which the Appeals Council considers additional evidence.

Background

Over the last few years, we have revised many of our regulations to bolster program integrity and clarify our policy, procedures, and expectations. For example, on June 25, 2014, we made changes to when a claimant must object to appearing at a hearing by video teleconferencing.[1] As another example, we published a final rule on March 20, 2015, that clarified a claimant's duty to inform us about or submit all evidence that relates to whether or not he or she is blind or disabled, subject to two exceptions for privileged communications.[2] We made these and other changes specifically to strengthen the integrity of our programs.

As we explained in the final rule on March 20, 2015, "we believe program integrity requires us to obtain complete medical evidence (favorable or unfavorable) in disability claims."[3] Although that statement refers to medical evidence, we reiterate in this proposed rule that a complete evidentiary record is necessary for us to make an informed and accurate disability determination or decision, and bolsters program integrity by improving consistency in the adjudication of claims at all levels of the administrative review process. As we look ahead, we continue to evaluate our regulatory and sub-regulatory policies to assess where we can make changes to improve accuracy and efficiency in our administrative review processes. To that end, we are now proposing the changes outlined below.

As we discuss in detail below, we have now had time to implement helpful systems changes and review a study performed by the Administrative Conference of the United States (ACUS), in which ACUS evaluated available data and considered various internal and external stakeholder opinions about the impact of our Part 405 rules.[4] We are

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[1] 79 FR 35926.

[2] See 80 FR 14828, 20 CFR 404.1512, 416.912.

[3] 80 FR at 14833.

[4] See Report from Office of the Chairman of the Administrative Conference of the United States, SSA Disability Benefits Adjudication Process: Assessing the Impact of the Region 1 Pilot Program (Dec. 23, 2013) ("ACUS Report"), available at *http://acus.gov/sites/default/files/documents/Assessing%20Impact%20of%20Region%201%20Pilot%20Program%20Report_12_23_13_final.pdf.* For the specific data reviewed and opinions collected by ACUS, see Appendix to SSA

Continued

also facing an unprecedented challenge in the workloads pending at our Office of Disability Adjudication and Review (ODAR). With more than a million people currently waiting for a hearing decision, we cannot afford to continue postponing hearing proceedings because the record is not complete at the time of the hearing. Facing this unprecedented workload challenge requires that we consider all options to ensure we have a complete evidentiary record, provide timely and accurate service, and improve how we perform all administrative tasks. We expect these proposed changes will help us accomplish all three objectives.

More specifically, in the last decade, we have made significant progress in modernizing our business processes for hearings-level cases and enhancing our use of technology. For example, we now process most disability claims electronically, which allows us to transfer workloads around the country more easily. In addition, we have established five National Hearing Centers (NHC) that process only electronic cases and conduct all hearings via video teleconferencing. The NHCs assist hearing offices that have larger workloads and longer wait times for hearings. Our ability to transfer cases electronically out of a region to an NHC, or to another hearing office with a smaller workload, allows us to serve claimants more efficiently.

As we have increased our use of electronic case files, we also had an opportunity to re-evaluate how we receive and process evidence. Previously, claimants and representatives would mail, fax, or hand-deliver evidence to us, and we would enter the evidence into the case file manually. While these options remain available, improvements in technology now permit claimants and representatives to submit evidence through our Electronic Records Express (ERE) system, which uploads evidence directly into the claimant's electronic case file. Many representatives have also registered to use the Appointed Representative Suite of Services (ARS), which allows them to remotely view the claimant's electronic case file online and verify in real time that we received evidence. Representatives who access the case file through ARS can also view all of the other evidence in the file to verify that the record is complete.[5]

We are also improving how we receive electronic evidence from medical providers. Our Health Information Technology (HIT) program allows us to request and receive a claimant's medical records through an electronic submission. Although we currently use HIT in only a small number of cases, we anticipate that we will expand the HIT program and make use of other technological advances that will make it easier and faster for us to obtain medical records. We expect these enhancements in how we receive evidence will improve our efficiency and ensure consistency in processing claims at the hearings and Appeals Council levels of our administrative review process.

Our progress in the areas discussed above can be undermined if our rules are not nationally consistent. At the beginning of 2006, the hearings and Appeals Council levels of our administrative review process generally operated under nationally consistent rules, set forth in 20 CFR parts 404 and 416. However, on March 31, 2006, we published a final rule that implemented a number of changes to our disability determination process.[6] These changes, which we referred to collectively as the Disability Service Improvement (DSI) process, were primarily set forth in Part 405 of our regulations. As we explained in the preamble to our final rule, we selected Boston[7] as the first region to implement the DSI process. Over the last decade, we have revised or rescinded many portions of the Part 405 regulations.[8] However, certain aspects of DSI processing remain at the hearings and Appeals Council levels.

For example, our current Part 405 rules require us to provide claimants with notice of their hearings at least 75 days in advance of the hearing.[9] By contrast, our current Part 404 and Part 416 rules require us to provide claimants with notice of their hearings at least 20 days in advance of the hearing.[10] In addition, under Part 405, claimants are required to submit any written evidence no later than 5 business days before the date of the scheduled hearing, with a few exceptions.[11] Conversely, under Parts 404 and 416, claimants can submit evidence up to and on the date of the hearing, or even after a hearing.[12] Additionally, Part 405 contains other processing differences, including the time limit of at least 10 days prior to the hearing to submit subpoena requests versus Parts 404 and 416, which contains a time limit of 5 days prior to the hearing to submit subpoena requests. Lastly, Part 405 requires the submission of objections to the issues at the hearing 5 days prior to the hearing versus Parts 404 and 416, which requires the submission of objections at the earliest possible opportunity.[13]

There is also a difference in claims processing at the Appeals Council level due to the Part 405 rules, especially those that address when the Appeals Council considers additional evidence. Under Parts 404 and 416, the Appeals Council will consider new and material evidence only when it relates to the period on or before the date of the ALJ hearing decision. The Appeals Council will evaluate the entire record, including any new and material evidence that relates to the period on or before the date of the ALJ hearing decision. It will then review the case if it finds that the ALJ's action, findings, or conclusion is contrary to the weight of the evidence currently of record.[14]

However, under Part 405, the Appeals Council will consider additional evidence only where it relates to the period on or before the date of the ALJ hearing decision, and only if the claimant shows that there is a reasonable probability that the evidence, alone or when considered with other evidence of record, would change the outcome of the decision; and: (1) Our action misled the claimant; (2) he or she had a physical, mental, educational, or linguistic limitation(s) that prevented him or her from submitting the evidence

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Disability Benefits Adjudication Process: Assessing the Impact of the Region I Pilot Program (Dec. 23, 2013) ("ACUS Report Appendix"), available at *https://www.acus.gov/sites/default/files/documents/Appendix%20to%20Assessing%20Impact%20of%20Region%20I%20Pilot%20Program%20Report_12_23_13_final.pdf.*

[5] Effective August 16, 2016, representatives who request direct payment of a fee in a case are generally required to access a case file through ARS. See 81 FR 22697 (2016).

[6] See 71 FR 16424.

[7] The Boston region consists of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

[8] See 73 FR 2411, corrected at 73 FR 10381, and 76 FR 24802.

[9] 20 CFR 405.315(a).

[10] 20 CFR 404.938(a), 416.1438(a)

[11] 20 CFR 405.331(a).

[12] Our regulations provide that "[y]ou should submit information or evidence . . . or any summary of the evidence to the administrative law judge with the request for hearing or within 10 days after filing the request, if possible." 20 CFR 404.935, 416.1335. However, as noted in our subregulatory instructions, we accept additional evidence that a claimant submits at or after a hearing, until we issue a hearing decision. See, *e.g.*, Hearings, Appeals, and Litigation Law manual (HALLEX) I–2–6–58 (available at *https://www.ssa.gov/OP_Home/hallex/I-02/I-2-6-58.html*) and I–2–7–20 (available at *https://www.ssa.gov/OP_Home/hallex/I-02/I-2-7-20.html*). The circumstances in which the Appeals Council will consider additional evidence are set forth in 20 CFR 404.976(b) and 416.1476(b).

[13] Cf. 20 CFR 404.950(d)(2), 416.1450(d)(2) with 20 CFR 405.332 (subpoenas); 20 CFR 404.939, 416.1439 with 20 CFR 405.317(c) (objections to the issues).

[14] 20 CFR 404.970(b), 416.1470(b).

earlier; or (3) some other unusual, unexpected, or unavoidable circumstance beyond his or her control prevented him or her from submitting the evidence earlier.[15]

We have always intended to implement nationally consistent rules after we had sufficient time to evaluate the effectiveness of DSI processing. To assist us in evaluating these issues, we asked ACUS to review the impact of our Part 405 regulations at the hearings and Appeals Council levels. Ultimately, in its final report, ACUS deferred to us regarding whether to implement the Part 405 regulations nationwide.[16] However, ACUS suggested a variety of guiding principles and other observations for us to consider in making a decision regarding national uniformity. For example, ACUS suggested that we: (1) Strive to attain an appropriate balance between claimant and agency interests as we pursue our goal of making the right disability decision as early in the process as possible; (2) strive for consistency in the administration of a national program; (3) collect and assess more data about the DSI program; and (4) if pursued, clarify the guidance to ALJs and claimants about application of the DSI program. ACUS also observed that if we pursued regulatory changes similar to DSI, it would be important to retain appropriate good cause exceptions for the late submission of evidence.

After considering ACUS's suggestions, we first provided additional training to ODAR adjudicators and staff regarding the application of our Part 405 rules. We also incorporated instructions for processing cases originating in the Boston region into our training materials for all staff, including addressing Part 405 issues in several of our quarterly Videos-On-Demand series that focus on new or problematic areas of adjudication. We continue to update sub-regulatory policy to include references and instructions on how to process cases under Part 405. As recommended by ACUS, we made these changes to promote consistent adjudication of Part 405 in the Boston region.

We then carefully considered ACUS's findings on how we receive evidence under Part 405. In its report, ACUS explained that it performed a comparative empirical analysis of data that we provided,[17] and its findings, while not definitive, appeared to show that the Part 405 rules made modest strides towards achieving our goal of improving the efficiency, accuracy, and timeliness of our disability adjudication process. While declining to draw definitive conclusions from its data analysis, ACUS highlighted several findings, including the following: (1) Under Part 405, there was less likelihood that adjudicators would determine the record needed additional evidence and request a consultative examination; (2) there were lower average processing times in the Boston region than other comparable regions, and the Boston region's average processing times did not exhibit the same comparative decline in average processing times found in other regions; and (3) the Boston region had the lowest pending disposition ratio, which suggests enhanced case efficiencies.

We note that several of ACUS's findings, based on the available data through 2012, are consistent with our experience. For example, ACUS stated that the "average time intervals between issuance of hearing notices and hearings have been rising steadily at both regional and national levels in recent years." [18] While Parts 404 and 416 require that we provide notice to a claimant of a scheduled hearing at least 20 days before the hearing,[19] and Part 405 requires that we provide notice to a claimant of a scheduled hearing at least 75 days before the hearing,[20] it has been our experience that for several years nationwide, most claimants received more advance notice of a hearing than the regulations require. Specifically, the Boston region appears to be scheduling hearings and notifying claimants approximately 90 days before the hearing while other regions are providing notice more than 60 days before the hearing.[21] Additionally, we have also observed that, nationally, cases in which we sent notices approximately 60 days prior to the date of the hearing seem to have a reduced or the same likelihood of a postponed hearing as those scheduled with less notice of the hearing.[22] In addition to our experience, we also considered ACUS's finding that there was strong support from stakeholders, both inside and outside of the agency, for increasing the amount of advance notice a claimant receives before a hearing.

We considered proposing to adopt a 75-day advance notice requirement nationwide. However, the information available to us indicates that there may be a higher incidence of postponements when we give claimants 75 days or more advance notice of a hearing due to the unavailability of the appointed representative or adjudicator on the date of the scheduled hearing.[23] In contrast, we have observed that most hearing offices already schedule hearings 60 days in advance, and a 60-day advance notice period appears to have the same or a reduced incidence of postponements when compared to notice periods less than 60 days.[24] Therefore, based on the available data, we propose a 60-day notice requirement as the most administratively efficient. Further, because we are already scheduling most hearings nationwide at least 60 days in advance, we do not expect that adopting this requirement would have an adverse impact on the public or on our operations. As noted by ACUS, the public seems to support increasing the number of days for advance notice of a hearing because, among other reasons, it will provide more time to obtain updated medical records before the date of the hearing. Therefore, we propose to require that, nationwide, we notify claimants of a scheduled hearing at least 60 days prior to the date of the hearing.

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[15] 20 CFR 405.401(c).

[16] See ACUS Report at 91.

[17] For specific information about the data reviewed by ACUS, see ACUS Report Appendix.

[18] See ACUS Report at 30.

[19] 20 CFR 404.938(a), 416.1438(a).

[20] 20 CFR 405.316(a).

[21] At the hearing level, we use the Case Processing and Management System (CPMS) to manage our workloads. From the information available in CPMS, we reviewed the number days between the date of the notice of hearing and the date of a scheduled hearing to assess whether these trends appear to continue. In the Boston region, CPMS shows the mean number of days between these dates to be 79.7 (2013), 88.5 (2014), and 90.3 (2015). The median number of days was 82.0 (2013), 89.0 (2014), and 90.0 (2015). Nationwide, CPMS shows the mean number of days was 64.3 (2013), 64.8 (2014), and 69.9 (2015). The median number of days was 60.0 (2013), 62.0 (2014), and 68.0 (2015). Though not yet complete, the numbers in 2016 appear to be consistent with these trends.

[22] After reviewing the information available in CPMS, we observed the following: In 2013, we postponed 26.1% of cases scheduled 25–49 days in advance, 26.4% of cases scheduled 50–74 days in advance, and 29.2% of cases scheduled 75–99 days in advance. In 2014, we postponed 28.3% of cases scheduled 25–49 days in advance, 27.3% of cases scheduled 50–74 days in advance, and 29.3% of cases scheduled 75–99 days in advance. In 2015, we postponed 28.1% of cases scheduled 25–49 days in advance, 26.8% of cases scheduled 50–74 days in advance, and 28.0% of cases scheduled 75–99 days in advance. We also note that our analysis showed that cases scheduled less than 25 days in advance had the highest rate of postponement.

[23] After reviewing the information available in CPMS for 2014–2016, we observed the following: In 2014 in the Boston region, hearings with at least one postponement were postponed 5.36% of the time due to a representative's unavailability and 8.07% of the time due to the unavailability of the decision maker. Nationally, the postponement rate for a representative's unavailability was 4.17% and a decision maker's unavailability was 5.91%. In 2015, the postponement rate in Boston for a representative's unavailability was 6.00% and a decision maker's unavailability was 8.02%. Nationally, the postponement rate for a representative's unavailability was 3.92% and a decision maker's unavailability was 6.76%. These trends appear to continue in 2016.

[24] See information in footnote 22.

The highlights of ACUS's empirical analysis and our own experience also support adopting nationwide rules similar to the existing Part 405 rules that govern how we receive evidence in the Boston region. For example, our experience is that under Parts 404 and 416, some hearings are postponed or require supplemental proceedings due to late submission of evidence. We anticipate that our final rule on the "Submission of Evidence in Disability Claims," [25] discussed earlier, will decrease the number of Appeals Council remands based on additional evidence. However, our experience has shown, and we expect to continue to see, that the Appeals Council will need to remand some cases due to new evidence. The need to postpone and reschedule cases, along with Appeals Council remands based on new evidence that was available at the time of the hearing decision, costs us valuable resources and delays the adjudication of all claims at the hearings and Appeals Council levels.

In its report, ACUS also identified several concerns raised by stakeholders both inside and outside the agency with implementing Part 405 nationwide. For example, ACUS explained that both ALJs and claimants' representative groups agree that two of the most challenging obstacles to timely submission of evidence are: (1) Delays in receipt of evidence from medical providers, and (2) delays in receipt of evidence from the claimant. As previously discussed, we propose changing our rules so that we provide claimants with additional time to inform us about or to obtain and submit written evidence. In doing so, we will also change our notices to ensure claimants are advised of the additional time. To address concerns about delays in receiving evidence from medical providers, we propose to retain the current good cause exceptions used in Part 405. We also propose to add examples, including that we will accept evidence submitted less than 5 business days prior to the hearing if a claimant shows that he or she actively and diligently sought to obtain the evidence promptly, but could not do so.

Based in part on ACUS's evaluation of the good cause exceptions to the Part 405 rule that requires claimants to submit evidence at least 5 business days before a hearing, we propose to clarify when other unusual, unexpected, or unavoidable circumstances beyond the claimant's control prevent earlier identification of or submission of evidence. To accomplish this, we have added examples to illustrate when a claimant meets a good cause exception, such as when a claimant is seriously ill or when evidence is not received until less than 5 business days before the hearing, despite the claimant's active and diligent efforts to obtain the evidence earlier. These examples are not intended to be exhaustive or to illustrate every possible situation, but to illustrate the sorts of situations most likely to arise.

In addition to adding examples regarding the good cause requirements, we also explain that, when reviewing claims that are not based on an application for benefits, the requirement to submit evidence at least 5 business days before a hearing does not apply if our other regulations permit the submission of evidence after the date of an ALJ decision. For example, under current section 416.1476(b)(2) (proposed section 416.1470(b)), in reviewing decisions other than those based on an application for benefits, the Appeals Council will consider evidence in the hearing record and any additional evidence it believes is material to an issue being considered. Supplemental Security Income (SSI) cases under title XVI of the Act that are not based on an application for benefits are excepted from the general rules that limit the Appeals Council's consideration of additional evidence based on the individual's right to reestablish his or her eligibility for title XVI payments during the course of an appeal without filing a new application.[26] Therefore, we added an exception to address this and similar situations where other regulations may permit the submission of evidence in claims that are not based on an application for benefits.

To ensure national consistency in our policy and procedures, we also propose requiring claimants to file written statements about the case, or any objections to the issues, at least 5 business days prior to a scheduled hearing. We further propose to require a claimant to submit subpoena requests at least 10 business days prior to a scheduled hearing. For consistency with these proposed changes, we also propose changes to our regulations to explain what constitutes the official record.

Our proposal that generally requires claimants to submit written evidence at least 5 business days before a hearing also requires that we propose revisions to how the Appeals Council will handle additional evidence it receives on appeal. Under the proposed rule, the Appeals Council would generally consider additional evidence only if it is new and material and relates to the period on or before the date of the hearing decision, and only if the claimant shows that he or she did not submit the evidence at the hearing level because: (1) Our action misled him or her; (2) he or she had a physical, mental, educational, or linguistic limitation(s) that prevented him or her from informing us about or submitting the evidence earlier; or (3) some other unusual, unexpected, or unavoidable circumstance beyond his or her control prevented him or her from informing us about or submitting the evidence earlier. If these requirements are satisfied, the Appeals Council would grant review if there is a reasonable probability that the evidence, alone or considered with the evidence of record, would change the outcome of the hearing level decision. For additional evidence that does not relate to the period on or before the ALJ decision, the Appeals Council would continue to notify the claimant that because of the new evidence, if he or she files a new application within a specified timeframe, the date of the claimant's request for review would constitute a written statement indicating an intent to claim benefits. This means that we would use the date of the claimant's request for Appeals Council review as the filing date for the new application, which we call a protective filing date. In addition to retaining this current practice, the Appeals Council would also provide a claimant with a protective filing date when it finds he or she did not have good cause for not submitting the evidence at the hearing level at least 5 business days before the hearing. Additionally, we also propose to clarify that the Appeals Council may conduct hearing proceedings to obtain additional evidence when needed.

In addition to creating greater uniformity in our procedures, we expect these changes will improve our ability to manage our workloads. Most importantly, we expect these changes to allow us to adjudicate cases and process workloads more efficiently and consistently, leading to better public service overall.

Because these proposed changes would bring the vast majority of Part 405 procedures in line with the procedures in Parts 404 and 416, we also propose to remove Part 405 in its entirety. In doing so, we acknowledge there are several sections in Part 405 that include minor language or substantive variances from Part 404 and Part 416 that we did not address above. For example, the requirements for showing good cause to extend a filing deadline are different under Part 405 from the ones we propose here. We intend that, other than the changes we propose in this NPRM, we are not proposing to adopt any of the other variances currently in Part 405.

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[25] 80 FR 14828.

[26] See 20 CFR 416.305(b)(5) (providing that an individual need not file a new SSI application if he or she is notified that his or her payments will be stopped because he or she is no longer eligible and he or she again meets the requirements for eligibility before his or her appeal rights are exhausted).

Clarity of These Proposed Rules

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make it easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rule clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand, *e.g.,* grouping and order of sections, use of headings, paragraphing?

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this proposed rule meets the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB reviewed it.

Regulatory Flexibility Act

We certify that this proposed rule would not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These proposed rules contain reporting requirements in the regulation sections §§ 404.929, 404.935, 404.939, 404.949, 404.950(2), 404.968, 416.1429, 416.1435, 416.1439, 416.1449, 416.1450 and 416.1468 that require OMB clearance under the Paperwork Reduction Act of 1995 (PRA). For sections 404.929, 404.949, 404.950(2), 416.1429, 416.1449, 416.1450(2) of these rules, we previously accounted for the public reporting burdens in the Information Collection Requests for OMB Numbers 0960–0269 and 0960–0710, which the public use to submit the information to SSA. Consequently, we are not reporting these sections. SSA will solicit public comment and will submit separate information collection requests to OMB in the future for regulations sections §§ 404.935, 404.939, 404.968, 416.1435, 416.1439, and 416.1468 as they require OMB clearance under the Paperwork Reduction Act of 1995 (PRA). We will not collect the information referenced in these burden sections until we receive OMB approval.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind; Disability benefits; Old-age, survivors, and disability insurance; Reporting and recordkeeping requirements; Social Security.

20 CFR Part 405

Administrative practice and procedure; Blind; Disability benefits; Old-age, survivors, and disability insurance; Public assistance programs; Reporting and recordkeeping requirements; Social Security; Supplemental Security Income (SSI).

20 CFR Part 416

Administrative practice and procedure; Aged, Blind, Disability benefits, Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: May 31, 2016.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend 20 CFR chapter III parts 404, 405, and 416 as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J—[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.900, revise the second sentence of paragraph (b) to read as follows:

§ 404.900 Introduction.

* * * * *

(b) * * * Subject to the limitations on Appeals Council consideration of additional evidence (see § 404.970(b)), we will consider at each step of the review process any information you present as well as all the information in our records.* * *

■ 3. In § 404.929, revise the fifth sentence to read as follows:

§ 404.929 Hearing before an administrative law judge-general.

* * * Subject to the provisions of § 404.935, you may submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses.* * *

■ 4. Revise § 404.935 to read as follows:

§ 404.935 Submitting written evidence to an administrative law judge.

(a) When you submit your request for hearing, you should also submit information or evidence as required by § 404.1512 or any summary of the evidence to the administrative law judge. Each party must make every effort to ensure that the administrative law judge receives all of the evidence and must inform us about or submit any written evidence, as required in § 404.1512, no later than 5 business days before the date of the scheduled hearing. If you do not comply with this requirement, the administrative law judge may decline to consider or obtain the evidence unless the circumstances described in paragraph (b) of this section apply.

(b) If you have evidence required under § 404.1512 but you have missed the deadline described in paragraph (a) of this section, the administrative law judge will accept the evidence if he or she has not yet issued a decision and you show that you did not inform us about or submit the evidence before the deadline because:

(1) Our action misled you;

(2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from informing us about or submitting the evidence earlier; or

(3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from informing us about or submitting the evidence earlier. For example, the administrative law judge will accept the evidence if you show that:

(i) You were seriously ill, and your illness prevented you from contacting us in person, in writing, or through a friend, relative, or other person;

(ii) There was a death or serious illness in your immediate family;

(iii) Important records were destroyed or damaged by fire or other accidental cause; or

(iv) You actively and diligently sought evidence from a source and, through no fault of your own, the evidence was not received or was received less than 5 business days prior to the hearing.

■ 5. In § 404.938, revise paragraphs (a) and (b) to read as follows:

§ 404.938 Notice of a hearing before an administrative law judge.

(a) *Issuing the notice.* After we set the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. We will mail or serve the notice at least 60 days before the date of the hearing.

(b) *Notice information.* The notice of hearing will tell you:

(1) The specific issues to be decided in your case;

(2) That you may designate a person to represent you during the proceedings;

(3) How to request that we change the time or place of your hearing;

(4) That your hearing may be dismissed if neither you nor the person you designate to act as your representative appears at your scheduled hearing without good reason under § 404.957;

(5) Whether your appearance or that of any other party or witness is scheduled to be made in person, by video teleconferencing, or by telephone. If we have scheduled you to appear at the hearing by video teleconferencing, the notice of hearing will tell you that the scheduled place for the hearing is a video teleconferencing site and explain what it means to appear at your hearing by video teleconferencing;

(6) That you must make every effort to inform us about or submit all written evidence that is not already in the record no later than 5 business days before the date of the scheduled hearing, unless you show that your circumstances meet the conditions described in § 404.935(b); and

(7) Any other information about the scheduling and conduct of your hearing.

* * * * *

■ 6. Revise § 404.939 to read as follows:

§ 404.939 Objections to the issues.

If you object to the issues to be decided at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity, but no later than 5 business days before the date set for the hearing. You must state the reason(s) for your objection(s). The administrative law judge will make a decision on your objection(s) either at the hearing or in writing before the hearing.

■ 7. Revise § 404.944 to read as follows:

§ 404.944 Administrative law judge hearing procedures—general.

(a) A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing, the administrative law judge looks fully into the issues, questions you and the other witnesses, and, subject to the provisions of § 404.935:

(1) Accepts as evidence any documents that are material to the issues;

(2) May stop the hearing temporarily and continue it at a later date if he or she finds that there is material evidence missing at the hearing; and

(3) May reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence.

(b) The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

■ 8. Revise § 404.949 to read as follows:

§ 404.949 Presenting written statements and oral arguments.

You or a person you designate to act as your representative may appear before the administrative law judge to state your case, present a written summary of your case, or enter written statements about the facts and law material to your case in the record. You must provide a copy of your written statements for each party no later than 5 business days before the date set for the hearing.

■ 9. In § 404.950, revise paragraphs (c) and (d) to read as follows:

§ 404.950 Presenting evidence at a hearing before an administrative law judge.

* * * * *

(c) *Admissible evidence.* Subject to the provisions of § 404.935, the administrative law judge may receive any evidence at the hearing that he or she believes is material to the issues, even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must file a written request for the issuance of a subpoena with the administrative law judge or at one of our offices at least 10 business days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or document is expected to prove; and indicate why these facts could not be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

* * * * *

■ 10. Revise § 404.951 to read as follows:

§ 404.951 Official record.

(a) *Hearing recording.* All hearings will be recorded. The hearing recording will be prepared as a typed copy of the proceedings if—

(1) The case is sent to the Appeals Council without a decision or with a recommended decision by the administrative law judge;

(2) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(3) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

(b) *Contents of the official record.* All evidence upon which the administrative law judge relies for the decision must be contained in the record, either directly or by appropriate reference. The official record will include the applications, written statements, certificates, reports, affidavits, medical records, and other documents that were used in making the decision under review and any additional evidence or written statements that the administrative law judge admits into the record under §§ 404.929 and 404.935. All exhibits introduced as evidence must be marked for identification and incorporated into the record. The official record of your claim will contain all of the marked exhibits and a verbatim recording of all testimony offered at the hearing; it also will include any prior initial determinations or decisions on your claim.

■ 11. In § 404.968, revise the second sentence of paragraph (a) introductory text to read as follows:

§ 404.968 How to request Appeals Council review.

(a) * * * You should submit any evidence you wish to have considered by the Appeals Council with your request for review, and the Appeals Council will consider the evidence in accordance with § 404.970(b). * * *

* * * * *

■ 12. Revise § 404.970 to read as follows:

§ 404.970 Cases the Appeals Council will review.

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence;

(4) There is a broad policy or procedural issue that may affect the general public interest; or

(5) The Appeals Council receives additional evidence that meets the requirements in paragraph (b) of this section, and there is a reasonable probability that the additional evidence, alone or considered with the evidence of record, would change the outcome of the decision.

(b) Under paragraph (a)(5) of this section, the Appeals Council will only consider additional evidence if you show that it is new and material and relates to the period on or before the date of the hearing decision, and you did not inform us about or submit the evidence by the deadline described in § 404.935 because:

(1) Our action misled you;

(2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from informing us about or submitting the evidence earlier; or

(3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from informing us about or submitting the evidence earlier. Examples of circumstances that, if documented, the Appeals Council may consider accepting the evidence include, but are not limited to, the following:

(i) You were seriously ill, and your illness prevented you from contacting us in person, in writing, or through a friend, relative, or other person;

(ii) There was a death or serious illness in your immediate family;

(iii) Important records were destroyed or damaged by fire or other accidental cause; or

(iv) You actively and diligently sought evidence from a source and, through no fault of your own, the evidence was not received or was received less than 5 business days prior to the hearing.

(c) If you submit additional evidence that does not relate to the period on or before the date of the administrative law judge hearing decision as required in paragraph (b) of this section, or the Appeals Council does not find you had good cause for missing the deadline to submit the evidence in § 404.935, the Appeals Council will send you a notice that explains why it did not accept the additional evidence and advises you of your right to file a new application. The notice will also advise you that if you file a new application within 6 months after the date of the Appeals Council's notice, your request for review will constitute a written statement indicating an intent to claim benefits under § 404.630. If you file a new application within 6 months of the Appeals Council's notice, we will use the date you requested Appeals Council review as the filing date for your new application.

(d) If the Appeals Council needs additional evidence, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the evidence more quickly, it may do so, unless it will adversely affect your rights. In some cases, the Appeals Council may obtain this evidence by conducting additional hearing proceedings.

■ 13. Revise § 404.976 to read as follows:

§ 404.976 Procedures before the Appeals Council on review.

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would help to reach a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 business days before the scheduled date. The Appeals Council will determine whether your appearance, or the appearance of any other person relevant to the proceeding, will be in person, by video teleconferencing, or by telephone.

PART 405—[REMOVED AND RESERVED]

■ 14. Under the authority of sections 205(a), 702(a)(5), and 1631(d)(1) of the Social Security Act, part 405 is removed and reserved.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

■ 15. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 16. In § 416.1400, revise the second sentence of paragraph (b) to read as follows:

§ 416.1400 Introduction.

* * * * *

(b) * * * Subject to the limitations on Appeals Council consideration of additional evidence (see § 416.1470(b)), we will consider at each step of the review process any information you present as well as all the information in our records.* * *

■ 17. In § 416.1429, revise the fifth sentence to read as follows:

§ 416.1429 Hearing before an administrative law judge-general.

* * * Subject to the limitations in § 416.1435, you may submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses.* * *

■ 18. Revise § 416.1435 to read as follows:

§ 416.1435 Submitting written evidence to an administrative law judge.

(a) When you submit your request for hearing, you should also submit information or evidence as required by § 416.912 or any summary of the evidence to the administrative law judge. Each party must make every effort to ensure that the administrative law judge receives all of the evidence, and you must inform us about or submit any written evidence, as required in § 416.912, no later than 5 business days before the date of the scheduled hearing. If you do not comply with this requirement, the administrative law judge may decline to consider or obtain the evidence unless the circumstances described in paragraph (b) of this section apply.

(b) If you have evidence required under § 416.912 but you have missed the deadline described in paragraph (a) of this section, the administrative law judge will accept the evidence if he or she has not yet issued a decision and you show that you did not inform us about or submit the evidence before the deadline because:

(1) Our action misled you;

(2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from informing us about or submitting the evidence earlier; or

(3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from informing us about or submitting the evidence earlier. For example, the administrative law judge will accept the evidence if you show that:

(i) You were seriously ill, and your illness prevented you from contacting us in person, in writing, or through a friend, relative, or other person;

(ii) There was a death or serious illness in your immediate family;

(iii) Important records were destroyed or damaged by fire or other accidental cause; or

(iv) You actively and diligently sought evidence from a source and, through no fault of your own, the evidence was not received or was received less than 5 business days prior to the hearing.

(c) Notwithstanding the requirements in paragraphs (a) and (b) of this section, for claims that are not based on an application for benefits, the evidentiary requirement to inform us about or submit evidence no later than 5 business days before the date of the scheduled hearing will not apply if our other regulations allow you to submit evidence after the date of an administrative law judge decision.

■ 19. In § 416.1438, revise paragraphs (a) and (b) to read as follows:

§ 416.1438 Notice of a hearing before an administrative law judge.

(a) *Issuing the notice.* After we set the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. We will mail or serve the notice at least 60 days before the hearing.

(b) *Notice information.* The notice of hearing will tell you:

(1) The specific issues to be decided in your case;

(2) That you may designate a person to represent you during the proceedings;

(3) How to request that we change the time or place of your hearing;

(4) That your hearing may be dismissed if neither you nor the person you designate to act as your representative appears at your scheduled hearing without good reason under § 416.1457;

(5) Whether your appearance or that of any other party or witness is scheduled to be made in person, by video teleconferencing, or by telephone. If we have scheduled you to appear at the hearing by video teleconferencing, the notice of hearing will tell you that the scheduled place for the hearing is a video teleconferencing site and explain what it means to appear at your hearing by video teleconferencing;

(6) That you must make every effort to inform us about or submit all written evidence that is not already in the record no later than 5 business days before the date of the scheduled hearing, unless you show that your circumstances meet the conditions described in § 416.1435(b); and

(7) Any other information about the scheduling and conduct of your hearing.

* * * * *

■ 20. Revise § 416.1439 to read as follows:

§ 416.1439 Objections to the issues.

If you object to the issues to be decided at the hearing, you must notify the administrative law judge in writing at the earliest possible opportunity, but no later than 5 business days before the date set for the hearing. You must state the reason(s) for your objection(s). The administrative law judge will make a decision on your objection(s) either at the hearing or in writing before the hearing.

■ 21. Revise § 416.1444 to read as follows:

§ 416.1444 Administrative law judge hearing procedures—general.

(a) A hearing is open to the parties and to other persons the administrative law judge considers necessary and proper. At the hearing, the administrative law judge looks fully into the issues, questions you and the other witnesses, and, subject to the provisions of § 416.1435:

(1) Accepts as evidence any documents that are material to the issues;

(2) May stop the hearing temporarily and continue it at a later date if he or she finds that there is material evidence missing at the hearing; and

(3) May reopen the hearing at any time before he or she mails a notice of the decision in order to receive new and material evidence.

(b) The administrative law judge may decide when the evidence will be presented and when the issues will be discussed.

■ 22. Revise § 416.1449 to read as follows:

§ 416.1449 Presenting written statements and oral arguments.

You or a person you designate to act as your representative may appear before the administrative law judge to state your case, present a written summary of your case, or enter written statements about the facts and law material to your case in the record. You must provide a copy of your written statements for each party no later than 5 business days before the date set for the hearing.

■ 23. In § 416.1450, revise paragraphs (c) and (d) to read as follows:

§ 416.1450 Presenting evidence at a hearing before an administrative law judge.

* * * * *

(c) *Admissible evidence.* Subject to the provisions of § 416.1435, the administrative law judge may receive any evidence at the hearing that he or she believes is material to the issues, even though the evidence would not be admissible in court under the rules of evidence used by the court.

(d) *Subpoenas.* (1) When it is reasonably necessary for the full presentation of a case, an administrative law judge or a member of the Appeals Council may, on his or her own initiative or at the request of a party, issue subpoenas for the appearance and testimony of witnesses and for the production of books, records, correspondence, papers, or other documents that are material to an issue at the hearing.

(2) Parties to a hearing who wish to subpoena documents or witnesses must file a written request for the issuance of a subpoena with the administrative law judge or at one of our offices at least 10 business days before the hearing date. The written request must give the names of the witnesses or documents to be produced; describe the address or location of the witnesses or documents with sufficient detail to find them; state the important facts that the witness or

document is expected to prove; and indicate why these facts could not be proven without issuing a subpoena.

(3) We will pay the cost of issuing the subpoena.

(4) We will pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

* * * * *

■ 24. Revise § 416.1451 to read as follows:

§ 416.1451 Official record.

(a) *Hearing recording.* All hearings will be recorded. The hearing recording will be prepared as a typed copy of the proceedings if—

(1) The case is sent to the Appeals Council without a decision or with a recommended decision by the administrative law judge;

(2) You seek judicial review of your case by filing an action in a Federal district court within the stated time period, unless we request the court to remand the case; or

(3) An administrative law judge or the Appeals Council asks for a written record of the proceedings.

(b) *Contents of the official record.* All evidence upon which the administrative law judge relies for the decision must be contained in the record, either directly or by appropriate reference. The official record will include the applications, written statements, certificates, reports, affidavits, medical records, and other documents that were used in making the decision under review and any additional evidence or written statements that the administrative law judge admits into the record under §§ 416.1429 and 416.1435. All exhibits introduced as evidence must be marked for identification and incorporated into the record. The official record of your claim will contain all of the marked exhibits and a verbatim recording of all testimony offered at the hearing; it also will include any prior initial determinations or decisions on your claim.

■ 25. In § 416.1468, revise the second sentence of paragraph (a) to read as follows:

§ 416.1468 How to request Appeals Council review.

(a) * * * You should submit any evidence you wish to have considered by the Appeals Council with your request for review, and the Appeals Council will consider the evidence in accordance with § 416.1470(b). * * *

■ 26. Revise § 416.1470 to read as follows:

§ 416.1470 Cases the Appeals Council will review.

(a) The Appeals Council will review a case if—

(1) There appears to be an abuse of discretion by the administrative law judge;

(2) There is an error of law;

(3) The action, findings or conclusions of the administrative law judge are not supported by substantial evidence;

(4) There is a broad policy or procedural issue that may affect the general public interest; or

(5) The Appeals Council receives additional evidence that meets the requirements in paragraph (b) of this section, and there is a reasonable probability that the additional evidence, alone or considered with the evidence of record, would change the outcome of the decision.

(b) In reviewing decisions other than those based on an application for benefits, the Appeals Council will consider the evidence in the administrative law judge hearing record and any additional evidence it believes is material to an issue being considered. However, in reviewing decisions based on an application for benefits, under paragraph (a)(5) of this section, the Appeals Council will only consider additional evidence if you show that it is new and material and relates to the period on or before the date of the hearing decision, and you did not inform us about or submit the evidence by the deadline described in § 416.1435 because:

(1) Our action misled you;

(2) You had a physical, mental, educational, or linguistic limitation(s) that prevented you from informing us about or submitting the evidence earlier; or

(3) Some other unusual, unexpected, or unavoidable circumstance beyond your control prevented you from informing us about or submitting the evidence earlier. Examples of circumstances that, if documented, the Appeals Council may consider accepting the evidence include, but are not limited to, the following:

(i) You were seriously ill, and your illness prevented you from contacting us in person, in writing, or through a friend, relative, or other person;

(ii) There was a death or serious illness in your immediate family;

(iii) Important records were destroyed or damaged by fire or other accidental cause; or

(iv) You actively and diligently sought evidence from a source and, through no fault of your own, the evidence was not received or was received less than 5 business days prior to the hearing.

(c) If you submit additional evidence that does not relate to the period on or before the date of the administrative law judge hearing decision as required in paragraph (b) of this section, or the Appeals Council does not find you had good cause for missing the deadline to submit the evidence in § 416.1435, the Appeals Council will send you a notice that explains why it did not accept the additional evidence and advises you of your right to file a new application. The notice will also advise you that if you file a new application within 60 days after the date of the Appeals Council's notice, your request for review will constitute a written statement indicating an intent to claim benefits under § 416.340. If you file a new application within 60 days of the Appeals Council's notice, we will use the date you requested Appeals Council review as the filing date for your new application.

(d) If the Appeals Council needs additional evidence, it may remand the case to an administrative law judge to receive evidence and issue a new decision. However, if the Appeals Council decides that it can obtain the evidence more quickly, it may do so, unless it will adversely affect your rights. In some cases, the Appeals Council may obtain this evidence by conducting additional hearing proceedings.

■ 27. Revise § 416.1476 to read as follows:

§ 416.1476 Procedures before the Appeals Council on review.

(a) *Limitation of issues.* The Appeals Council may limit the issues it considers if it notifies you and the other parties of the issues it will review.

(b) *Oral argument.* You may request to appear before the Appeals Council to present oral argument. The Appeals Council will grant your request if it decides that your case raises an important question of law or policy or that oral argument would help to reach a proper decision. If your request to appear is granted, the Appeals Council will tell you the time and place of the oral argument at least 10 business days before the scheduled date. The Appeals Council will determine whether your appearance, or the appearance of any other person relevant to the proceeding, will be in person, by video teleconferencing, or by telephone.

[FR Doc. 2016–16265 Filed 7–11–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–101689–16]

RIN 1545–BN25

Requirement To Notify the IRS of Intent To Operate as a Section 501(c)(4) Organization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the requirement, added by the Protecting Americans from Tax Hikes Act of 2015, that organizations must notify the IRS of their intent to operate under section 501(c)(4) of the Internal Revenue Code (Code). The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by October 11, 2016.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–101689–16), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–101689–16), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS REG–101689–16).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Chelsea Rubin at (202) 317–5800; concerning submission of comments and request for hearing, Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking will be reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–2268 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by September 12, 2016.

The collection of information is in § 1.506–1T(a)(2). The likely respondents are organizations described in section 501(c)(4) of the Code (section 501(c)(4) organizations). The collection of information in § 1.506–1T(a)(2) flows from section 506(b) of the Code, which requires a section 501(c)(4) organization to submit a notification including the following items of information: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. The temporary regulations provide that the notification must be submitted on Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," or its successor. In addition to the specific information required by statute, the temporary regulations require that an organization provide any additional information that may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Form 8976 requires an organization to provide its annual accounting period to ensure that the statutorily-required items of information in the notification are correlated accurately within existing IRS systems. The burden for the collection of information in § 1.506–1T(a)(2)(i) through (iv) associated with the one-time submission of the notification will be reflected in the burden estimate for Form 8976.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR part 1) that provide guidance relating to section 405 of the Protecting Americans from Tax Hikes Act of 2015 (Pub. L. 114–113, div. Q), regarding the new requirement that organizations must notify the IRS of their intent to operate under section 501(c)(4) of the Code. The text of those temporary regulations also serves as the text of these proposed regulations and the preamble to the temporary regulations explains the relevant provisions.

Statement of Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site at *http://www.irs.gov.*

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant impact on a substantial number of small entities. The collection of information is in § 1.506–1T(a)(2). The certification is based on the following:

Section 1.506–1T(a)(2) requires the notification to include only a few pieces of basic information: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state or other jurisdiction under the laws of which, the organization was organized; (3) a statement of the purpose of the organization; and (4) such additional information as may be prescribed by published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification.

These requirements will have a minimal burden on section 501(c)(4) organizations submitting the notification, including small section 501(c)(4) organizations. The notification requires only basic information regarding the organization and, as such, will require little time to submit. Moreover, the burden on small organizations is further minimized because the information is only required to be submitted once.

For these reasons, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Chelsea R. Rubin, Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.506–1 is added to read as follows:

§ 1.506–1 Organizations required to notify Commissioner of intent to operate under section 501(c)(4).

[The text of proposed § 1.506–1 is the same as the text for § 1.506–1T published elsewhere in this issue of the **Federal Register**].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016–16337 Filed 7–8–16; 11:15 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2010–0895; FRL–9948–86–OAR]

RIN 2060–AS90

National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Reconsideration; proposed rule.

SUMMARY: On June 30, 2015, the Environmental Protection Agency (EPA) published the residual risk and technology review (RTR) final rule, establishing national emission standards for hazardous air pollutants (NESHAP) for the Ferroalloys Production source category. Subsequently, the EPA received two petitions for reconsideration of certain aspects of the final rule. The EPA is announcing reconsideration of and requesting public comment on three issues raised in the petitions for reconsideration, as detailed in the **SUPPLEMENTARY INFORMATION** section of this action. The three issues the EPA is reconsidering and seeking public comment on are the following: the polycyclic aromatic hydrocarbons (PAH) compliance testing frequency for furnaces that produce ferromanganese (FeMn); the use of the digital camera opacity technique (DCOT) for determining compliance with the shop building opacity standards; and the use of bag leak detection systems (BLDS) on positive pressure baghouses. The EPA is seeking comment only on these three issues and will not respond to comments addressing other issues or other provisions of the final rule. The EPA is not proposing any changes to the NESHAP in this document.

DATES: *Comments.* Comments must be received on or before August 26, 2016.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by July 18, 2016, a public hearing will be held on July 27, 2016. If you are interested in attending the public hearing, contact Ms. Virginia Hunt at (919) 541–0832 or by email at *hunt.virginia@epa.gov* to verify that a hearing will be held. If the EPA holds a public hearing, the EPA will keep the record of the hearing open for 30 days after completion of the hearing to provide an opportunity for submission of rebuttal and supplementary information.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0895, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy information about CBI, or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0895. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you submit an electronic comment through *http://www.regulations.gov,* the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2010–0895. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA WJC West Building, Room Number 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Public Hearing. If requested by July 18, 2016, we will hold a public hearing on July 27, 2016, from 10:00 a.m. [Eastern Standard Time] to 5:00 p.m. [Eastern Standard Time] at the U.S. Environmental Protection Agency building located at 109 T.W. Alexander Drive, Research Park, NC 27711. Please contact Virginia Hunt of the Sector Policies and Programs Division via email at *hunt.virginia@epa.gov* or phone at (919) 541–0832 to request a hearing, register to speak at the hearing, or to inquire as to whether or not a hearing will be held. The last day to pre-register in advance to speak at the hearing will be July 25, 2016. Additionally, requests to speak will be taken the day of the hearing at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or special accommodations such as audio description, we ask that you pre-register for the hearing, as we may not be able to arrange such accommodations without advance notice. The hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rule reconsideration action. The EPA will make every effort to accommodate all speakers who arrive and register. Because this hearing is held at a U.S. government facility, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering Federal facilities. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma, or the state of Washington, you must present an additional form of identification to enter the federal building. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses, and military identification cards. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building, and demonstrations will not be allowed on federal property for security reasons. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Verbatim transcripts of the hearing and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearing to run either ahead of schedule or behind schedule. Again, a hearing will not be held on this rulemaking unless requested. A hearing needs to be requested by July 18, 2016.

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact Phil Mulrine, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5289; fax number: (919) 541–3207; and email address: *mulrine.phil@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Cary Secrest, Office of Enforcement and Compliance Assurance (2242A), U.S. Environmental Protection Agency, EPA WJC South Building, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–8661; and email address: *secrest.cary@epa.gov.*

SUPPLEMENTARY INFORMATION:

Organization of this Document. The information presented in this preamble is organized as follows:

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  B. What action is the agency taking?
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I. General Information

A. Does this action apply to me?

Categories and entities potentially affected by this action are shown in Table 1 of this preamble.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

NESHAP and source category	NAICS[1] Code
Ferroalloys Production	331112

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity may be affected by this action, you should carefully examine the applicability criteria found in 40 CFR 63.1620 of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the agency taking?

In this action, in response to petitions for reconsideration from Eramet Marietta Inc. (Eramet) and Felman Production LLC (Felman), the EPA is granting reconsideration of and requesting comment on the following three provisions of the final rule: (1) The requirement to conduct PAH performance testing every 3 months for furnaces producing FeMn for the first year with the opportunity to reduce to annual testing after the first year; (2) the requirement to demonstrate compliance with the shop building opacity standards using DCOT in accordance with American Society for Testing and Materials (ASTM) D7520–13; and (3) the requirement to monitor positive pressure baghouse emissions using BLDS. As described in detail in Section II of this preamble, one or both of the petitioners requested EPA reconsider these three provisions.

This action is limited to the specific three provisions identified previously. Another issue raised by Eramet in their petition concerned the method we used to calculate the PAH emission limits. The EPA is deferring any decisions regarding whether to grant or deny reconsideration of this issue, and we are not reopening comment at this time on this issue. We will determine whether to grant or deny reconsideration of the PAH emission calculation issue no later than when we take final action on the three provisions we are reopening in this action.

We will not respond to any comments addressing any other provisions not being reconsidered in the final Ferroalloys Production NESHAP. Furthermore, the EPA is not proposing any changes to the NESHAP in this action.

C. What is the agency's authority for taking this action?

The statutory authority for this action is provided by sections 112 and 307(d)(7)(B) of the Clean Air Act (CAA) as amended (42 U.S.C. 7412 and 7607(d)(7)(B)).

D. What are the incremental cost impacts of this action?

There are no changes to the estimated incremental cost impacts that were presented in the Ferroalloys Production RTR final rule published in the **Federal Register** on June 30, 2015, (80 FR 37366) in this action. These incremental impacts were described in detail in the *Final Cost Impacts of Control Options Considered for the Ferroalloys Production NESHAP to Address Fugitive HAP Emissions* (see EPA–HQ–OAR–2010–0895–0301) and the *Economic Impact Analysis (EIA) for the Manganese Ferroalloys RTR Final Report* (see EPA–HQ–OAR–2010–0895–0290).

II. Background

Section 112 of the Clean Air Act (CAA) establishes a two-stage regulatory process to address emissions of hazardous air pollutants (HAP) from stationary major sources. In the first stage, sections 112(d)(2) and (3) require EPA to promulgate national technology-based emission standards for these sources based on maximum achievable control technology (MACT). These standards are commonly called MACT standards. The EPA finalized the MACT standards for Ferroalloys Production on May 20, 1999 (64 FR 27450). In the second stage, section 112(f) of the CAA requires EPA to assess the risks to human health remaining after implementation of the MACT standards. In addition, section 112(d)(6) of the CAA requires EPA to review and revise these MACT standards, as necessary, taking into account developments in practices, processes, and control technologies since EPA promulgated the original standards. The CAA requires EPA to conduct these reviews within 8 years of the publication of the final MACT standards. The EPA typically conducts the two reviews, commonly referred to as the risk and technology reviews (RTRs), concurrently, as we did with the Ferroalloys Production source category. The EPA completed the RTR for the Ferroalloys Production in 2015 and published a final RTR rule for the Ferroalloys Production source category in the **Federal Register** on June 30, 2015 (80 FR 37366), which included, among other things, the following:

- Revisions to the emission limits for particulate matter (PM) from stacks for the electric arc furnaces (EAF), metal oxygen refining (MOR) processes, and crushing and screening operations, to minimize PM emissions from these units;
- Emission limits for four previously unregulated hazardous air pollutants (HAP): Formaldehyde, hydrogen chloride, mercury, and PAH;
- Requirements to capture process fugitive emissions using effective, enhanced local capture, and duct the captured emissions to control devices;
- An average opacity limit of 8 percent during a full furnace cycle, and a maximum opacity limit of 20 percent for the average of any two consecutive 6-minute periods, to ensure effective capture and control of process fugitive emissions;
- A requirement to conduct opacity observations using the DCOT at least once per week for a full furnace cycle for each operating furnace and each MOR operation for at least 26 weeks. After 26 weeks, if all tests are compliant, facilities can decrease to monthly opacity observations;
- A requirement to use BLDS to monitor PM emissions from all furnace baghouses; and
- A requirement to conduct periodic performance testing to demonstrate compliance with the stack emission limits for the various HAP, including a requirement to conduct PAH performance testing every 3 months for furnaces producing FeMn for the first year with the opportunity to reduce to annual testing after the first year.

Following promulgation of the final rule, the EPA received two petitions for reconsideration of several provisions of the NESHAP pursuant to CAA section 307(d)(7)(B). The EPA received a petition dated August 25, 2015, from Eramet, and a petition dated August 28, 2015, from Felman. In the petition submitted by Eramet, the company requested that the EPA reconsider the following provisions: (1) The requirement to conduct PAH performance testing every 3 months for furnaces producing FeMn; (2) the requirement to demonstrate compliance weekly with shop building opacity limits using the DCOT in accordance with ASTM D7520–13; and (3) the PAH emission limits for existing furnaces producing FeMn and silicomanganese (SiMn). In addition, the company requested a stay of 90 days from the effective date of the final amendments pending completion of the reconsideration proceeding. In the petition submitted by Felman, the company stated that they support and adopt the petition submitted by Eramet and requested reconsideration of the requirement to use BLDS to monitor emissions from positive pressure baghouses. Copies of the petitions are provided in the docket (see EPA–HQ–OAR–2010–0895).

On November 5, 2015, the EPA sent letters to the petitioners granting reconsideration of the PAH compliance testing frequency issue raised by Eramet and the use of BLDS on positive pressure baghouses raised by Felman. In those letters, the EPA said we were continuing to review the other issues and intend to take final action on those issues no later than the date we take final action on the PAH testing frequency and BLDS issues. The agency also stated in the letters that a **Federal Register** action would be issued initiating the reconsideration process for the issues on which the EPA is granting reconsideration, which is what we are doing here with publication of this action.

In addition to the two requirements mentioned previously (*i.e.,* regarding PAH testing frequency for furnaces producing FeMn and the use of BLDSs to monitor PM emissions from positive pressure baghouses) for which the EPA granted reconsideration via letters, after further review and consideration, the EPA has also decided to grant reconsideration of the requirement to use DCOT in accordance with ASTM D75520–13 to demonstrate compliance with shop building opacity standards. However, for each of these three requirements, after further analyses, evaluation, and consideration, we continue to believe these requirements are appropriate. Therefore, in this action, we are not proposing any changes to these requirements. Instead, we are providing further discussion and explanation as to why we believe it is appropriate to maintain these requirements in the rule, providing additional technical information to support our decisions, and requesting comment on these three requirements for which the EPA is granting reconsideration. If a commenter disagrees with our assessment of these issues, we encourage the commenter to provide a detailed technical explanation as to why they disagree and provide supporting information. Furthermore, if a commenter recommends any changes to the three rule requirements addressed in this action, we encourage the commenter to describe the specific rule changes they recommend and an explanation as to why they recommend such changes.

III. Discussion of the Issues Under Reconsideration

A. Quarterly PAH Testing for Furnaces Producing FeMn

In the 2014 supplemental proposal, which was published in the **Federal Register** on October 6, 2014 (79 FR 60238), the EPA proposed an emission limit of 1.4 milligrams per dry standard cubic meter (mg/dscm) for PAHs from existing furnaces producing FeMn based on two emissions tests (with a total of six runs). The EPA based the limit on the only valid PAH data we had for FeMn producing furnaces during the development of the supplemental proposed rule. We received an additional test report in August 2014 (a few weeks before signature of the supplemental proposed rule) that included data from one additional emissions test (with three runs). However, we were not able to incorporate that additional data into our analyses for the supplemental proposal. As we explained in the supplemental proposal, we had not yet completed our technical review of those new data and we were not able to incorporate those new data into our analyses in time for the completion of the supplemental proposal. However, we did seek comments on that data.

After publication of the supplemental proposal, we received additional data during the comment period that included one additional emissions test for PAHs, with four runs.

In the development of the final rule, after we completed our technical review of all the data, we incorporated the additional data into our analyses such that the PAH limit for furnaces producing FeMn was based on four emissions tests (with a total of 13 runs). As we explained in the final rule preamble, the additional data we received just before signature of the supplemental proposal and again during the comment period indicated PAH emissions from furnaces producing FeMn were much higher than indicated by the data we had prior to August 2014. For example, the PAH concentrations for furnaces producing FeMn in these additional test reports were over 12 times higher than in previous test reports submitted by Eramet (as shown in appendix A of the *Revised MACT Floor Analysis for the Ferroalloys Production Source Category* document, which is available in the docket).

To calculate the MACT floor emissions limit for the final rule, we incorporated all the data (13 runs) and applied our standard 99 percent upper prediction limit (UPL) methodology. Using the UPL methodology resulted in a MACT floor emissions limit of 12 mg/dscm, which was 9 times higher than the MACT floor limit of 1.4 mg/dscm we had proposed in 2014.

With regard to testing frequency, in the 2014 supplemental proposal, we proposed that compliance testing for PAHs from furnaces producing FeMn be conducted at least once every 5 years. However, as we explained in the final rule preamble, due to the large variation in PAH emissions from these furnaces during FeMn production, we required quarterly compliance testing for PAHs (*i.e.,* at least one PAH compliance test every 3 months) for furnaces while producing FeMn in the final rule, with an opportunity for facilities to request decreased frequency of such compliance testing (*e.g.,* to annual testing) from their permitting authority after the first year.

In their petition, Eramet stated that "without warning, in the final Ferroalloys NESHAP, EPA increased the compliance test frequency for PAH emissions from ferroalloys production by 20 times." Specifically, the petitioner asserted that in the 2014 supplemental proposal, the EPA proposed PAH compliance testing every 5 years, which the petitioners considered appropriate, and, therefore, they did not comment on the provision. For the 2015 final rule, the EPA increased the PAH compliance testing frequency to quarterly, which the petitioners believe is a surrogate for information collection and not an appropriate use of the rulemaking process. The petitioners also stated that the increased PAH testing frequency increases compliance costs (by about $75,000 for the first year) and increases penalty risks.

After considering the petition from Eramet, the EPA is not proposing any changes to the testing frequency in this action.

However, in consideration of the fact that the public lacked the opportunity to comment on the change in testing frequency, the EPA has granted reconsideration of this issue to provide an opportunity for public comment on the testing frequency. We are proposing no change to the quarterly testing for PAH for furnaces producing FeMn due to the high variability of the PAH test data and the fact that the new data were much higher than the previous data. The inclusion of these data increased the MACT emissions limit for PAHs (which was based on the 99 percent UPL) for furnaces producing FeMn in the 2015 final rule by about 9 times compared to the MACT limit proposed in the 2014 supplemental proposal. In contrast, the PAH concentrations for furnaces producing SiMn were only slightly higher than previous test data received from the facilities. Furthermore, we believe the quarterly testing, along with the collection of process information that a facility may choose to collect voluntarily, could provide data that would help facilities learn what factors or conditions are contributing to the quantity and variation of PAH emissions. For example, among other things, we believe the collection and analyses of information about the amounts and types of input materials, types of electrodes used, electrode consumption rates, furnace temperature, and other furnace, process, or product information may help facilities understand what factors are associated with the higher emissions and could provide insight regarding how to limit these emissions. Furthermore, as we described in the preamble of the final rule (80 FR 37383), if a facility decides to apply for decreased frequency of compliance testing from their permit authority, this type of information (described previously) could be helpful input for such an application.

In addition, we believe initial quarterly PAH compliance testing will help ensure that the public is not exposed to high concentrations of PAH due to emissions from these facilities. By retaining frequent testing with the ability to reduce the frequency of testing with compliant results, the rule ensures adequate protection of the public while providing an additional incentive for the source to promptly achieve compliance with the new MACT emission limit.

While we are not proposing any changes to the testing frequency for PAHs from FeMn furnaces, we seek comment on whether the goals of gaining a further understanding of factors influencing emissions, incentivizing prompt compliance, and ensuring minimizing public exposures to PAH emissions can be achieved with a slightly different testing frequency such as semiannual testing for 2 years with an opportunity to reduce frequency thereafter to annual testing.

B. DCOT Opacity Compliance Demonstration

In the 2014 supplemental proposal), we proposed that facilities would need to take opacity readings for an entire furnace cycle once per week per furnace using Method 9 or DCOT to demonstrate compliance with the opacity limits. However, in the supplemental proposal, we also said we were seeking comments on the feasibility and practice associated with the use of automated opacity monitoring with ASTM D7520–13, using DCOT to assess the opacity of visible emissions from roof vents associated with the processes at each facility, and how this technology could potentially be included as part of the requirements in the NESHAP for ferroalloys production sources.

In the final rule, we explained that after considering public comments, we decided to require DCOT, rather than allow its use as an option, and maintained the same frequency as proposed for Method 9, at least for the first 26 weeks. Therefore, the final rule includes a requirement to conduct opacity observations using the DCOT at least once per week for a full furnace cycle for each operating furnace and each MOR operation for at least the first 26 weeks. After 26 weeks, if all tests are compliant, the final rule allows facilities to decrease to monthly opacity observations.

In their reconsideration petitions, the petitioners stated the EPA solicited comment on the use of DCOT for determining opacity from the shop building in the 2014 supplemental proposal, but did not propose to require DCOT in accordance with ASTM D7520–13 as the sole method of demonstrating compliance with the opacity standard. In their supplemental proposal comments (see EPA–HQ–OAR–2010–0895–0269 and –0272), the petitioners stated that the EPA had provided insufficient description of what might be required to employ DCOT on the shop buildings, and argued that DCOT was an unproven substitute for EPA Method 9 measurements. They also commented that the open roof monitors in the shop building create variability in plume location and orientation, which they believed would make DCOT infeasible or too costly.

In their reconsideration petitions, the petitioners claimed that the referenced ASTM method expressly applies to stack openings of 7 feet in diameter or less, whereas the shop building open roof monitors at the facilities stretch along the top of the roofline and are hundreds of feet long. They also noted that only one vendor provides DCOT and that the vendor would be free to charge the facilities whatever prices they want.

After considering the petitions from Eramet and Felman, and after gathering, reviewing, and evaluating additional information, the EPA is not proposing any changes to the requirements for demonstrating compliance with the opacity limits. The EPA continues to believe it is appropriate to require ferroalloys production facilities to conduct opacity observations using the DCOT at least once per week for a full furnace cycle for each operating furnace and each MOR operation for at least the first 26 weeks. However, we are seeking comments on this DCOT monitoring requirement and the additional information and analyses which are described in the following paragraphs.

First, we have gathered and reviewed additional information that shows that opacity readings using DCOT are statistically equivalent to EPA Method 9 opacity readings, including several studies from government agencies and other organizations,[1] [2] which compare Method 9 to DCOT. Each of these studies determined that DCOT is statistically equivalent to EPA Method 9 when measuring nonzero visible emissions. We have also reviewed the results of Method 301 evaluations where DCOT was used to measure opacity of emissions from stacks greater than 7 feet in diameter and exiting along rooflines (see the *Statistical Comparison of ASTM D7520 to EPA Reference Method 9 on Opacity from Stacks with Diameters Over 7 Feet,* by Hicks, S., *et. al.,* August 28, 2015, which is available in the docket for this action). These Method 301 studies showed no statistical difference between the opacity measured using DCOT and EPA Method 9, regardless of the stack diameter. In addition, we have learned that ASTM International is currently revising the DCOT test method (ASTM D7520–13) to remove the provision limiting application to stacks with diameters of 7 feet or less. While DCOT has a record of accuracy comparable to Method 9, it also offers the distinct advantage of generating a permanent record of the observation. This will be advantageous to the facility, oversight authorities, and affected third parties (such as the community) if there is a dispute about the facility's emissions. Opacity measurement using DCOT offers measurements that are statistically as accurate as Method 9, creates a permanent record of opacity measurements, and presents a scientifically defensible approach for opacity determination.

Regarding the comment that there is only one vendor, we believe there will be an increase use of DCOT in the future and an increased market and therefore other vendors will begin offering these services. We believe that once other vendors learn that EPA is starting to require DCOT in various rules and other actions, that other vendors will become available, which will likely keep prices approximately the same, or possibly lower. We are not aware of any evidence that the vendor has raised, or will raise, its prices due to the Ferroalloys Production final rule.

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[1] Air Force Research Laboratory, An Alternative To EPA Method 9—Field Validation Of The Digital Opacity Compliance System (DOCS): Results From The One-Year Regulatory Study, August 2005. AFRL–ML–TY–TR–2006–4515.

[2] Electric Power Research Institute (EPRI), Digital Camera Opacity Technique: Field Test Evaluation Report, Technical Update, June 2014. 1023954.

C. BLDS on Positive Pressure Baghouses

In the 2014 supplemental proposal, we proposed that furnace baghouses would be required to be equipped with BLDS. In response to the supplemental proposal, Felman commented that the existing positive pressure baghouses and the baghouse monitoring system at the Felman site constrain the kinds of monitoring and monitoring systems that Felman can use, and that BLDS had never been demonstrated on a positive-pressure baghouse. Felman requested that the EPA not require BLDS on their baghouses because they claimed this would effectively require Felman to replace its existing control system with a negative-pressure baghouse simply to meet the baghouse monitoring requirement. In response to this comment, we explained that the EPA has knowledge of BLDS being used on positive pressure baghouse systems, including those baghouses with large area roof emissions points. A change to a negative pressure baghouse would not be necessary. Manufacturers of BLDSs provide information on how best to deploy their instruments on the outlet of a positive pressure baghouse.

In their petition, Felman asserted that the EPA did not provide any information regarding the use of BLDS on positive pressure baghouses. The commenter stated that in the Response to Comment document,[3] the EPA claimed that they had knowledge of BLDS being used on positive pressure baghouses and that the facility should check with manufacturers of BLDS for how best to comply. However, the petitioner stated that this knowledge is not included in the record, and the most current published EPA technical guidance on this topic stated that BLDS is not appropriate for positive pressure baghouses. In addition, the petitioner claimed the EPA had not evaluated the costs associated with this application and estimated the cost to be comparable with BLDS for negative pressure baghouses. The petitioner also noted that the EPA's supplemental proposal did not require continuous baghouse monitoring for baghouses used to control fugitive emissions. However, the petitioner stated that the baghouses used to control fugitive emissions at their facility also control emissions from the furnace.

After considering the petition from Felman, and after gathering, reviewing, and evaluating additional information, the EPA is not proposing any changes to the requirement in the rule that baghouses be equipped with BLDS. The EPA continues to believe it is appropriate to require BLDS to monitor PM emissions from all furnace baghouses. However, we are seeking comments on this BLDS requirement and on the additional information we are adding to the record, as described in the following paragraph.

We are providing additional supporting information on the use of BLDSs on positive pressure baghouses to the record. This includes technical articles[4 5] on the installation and operation of BLDS on positive pressure baghouses, and correspondence with manufacturers and installers with experience installing BLDS on positive pressure baghouses (see the *Positive Pressure Baghouse Bag Leak Detection Information Memorandum* which is available in the docket for this action). In addition, we have corresponded with facilities that have installed and operated BLDS on their positive pressure baghouses (see the *Positive Pressure Baghouse Bag Leak Detection Information Memorandum* which is available in the docket for this action). Based on this information, we have found no technical or economic basis for removing the BLDS requirement from the final rule. The monitoring requirement for furnace baghouses is intended to ensure continuous compliance with the PM standards in the final rule, which are surrogate standards for metal HAP emitted from the furnaces.

As mentioned previously, we are seeking comments on the BLDS requirement along with data and other information to support such comments. If a commenter disagrees with our assessment regarding feasibility of BLDS on specific types of baghouses, we encourage such commenters to provide a detailed technical explanation and information to support such comments. Furthermore, in this case, we would also request the commenter to provide detailed suggestions as to what alternative monitoring actions could be implemented (instead of BLDS) to ensure continuous compliance with the PM standards.

IV. Impacts of This Action

A. Economic Impacts

The EPA does not expect any significant economic impacts as a result of this rule reconsideration. The rule provisions that are being reconsidered in this action were already included in the Economic Impact Analysis for the final rule. Changes to the final rule as a result of this reconsideration, if any, would likely result in lower economic costs and impacts rather than higher costs and impacts.

B. Environmental Impacts

The EPA does not expect any significant environmental impacts as a result of the reconsideration of the three rule provisions identified in this action, especially since the EPA is not proposing any changes to these provisions. The issues being reconsidered are monitoring and compliance testing issues and, therefore, should not have any effect on the estimated emissions or emission reductions from what we estimated in the final rule.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060–0676. This proposal document provides reconsideration of three issues raised by petitioners on the final rule, but does not make revisions to the requirements in the final rule. Therefore, this action does not change the information collection requirements previously finalized and, as a result, does not impose any additional burden on industry.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The agency has determined that neither of the companies affected by this proposed reconsideration document is considered to be a small entity.

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[3] See EPA–HQ–OAR–2010–0895–0302.

[4] Iron and Steel Technology, Practical Application of Broken Bag Detector Technology for Compliance and Maintenance: Under the Steelmaking Electric Arc Furnace New Source Performance Standards and the Iron and Foundry NESHAP, April 2005.

[5] Babcock & Wilcox, Fabric Filter Leak Detector Setup and Use, August 2014. Technical Paper BR–1920.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. There are no ferroalloys production facilities that are owned or operated by tribal governments. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The health risk assessments completed for the final rule are presented in the *Residual Risk Assessment for the Ferroalloys Source Category in Support of the 2015 Final Rule* document, which is available in the docket for this action (EPA–HQ–OAR–2010–0895–0281), and are discussed in section V.G of the preamble for the final rule (80 FR 37366).

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. In the final rule for this source category, the EPA decided to use ASTM D7520–13, Standard Test Method for Determining the Opacity in a Plume in an Outdoor Ambient Atmosphere, for measuring opacity from the shop buildings. This standard is an acceptable alternative to EPA Method 9 and is available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *http://www.astm.org/*. For this proposed reconsideration action, the EPA has agreed to reconsider the use of ASTM D7520–13 as the only method to be used to measure opacity from the shop buildings.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59FR 7629, February 16, 1994) because it does not affect the level of protection provided to human health or the environment. This action only includes reconsideration of certain issues of the final rule that will not affect the emission standards that were finalized on June 30, 2015.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 30, 2016.

Gina McCarthy,

Administrator.

[FR Doc. 2016–16450 Filed 7–11–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[PS Docket No. 15–80, 11–82; FCC 16–63]

Disruptions to Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on: A proposal to update the Commission's outage reporting requirement rules to address broadband network disruptions, including packet-based disruptions based on network performance degradation; proposed changes to the rules governing interconnected voice over Internet protocol (VoIP) outage reporting to include disruptions based on network performance degradation, update our outage definition to address incidents involving specified network components; and modify the reporting process to make it consistent with other services; reporting of call failures in the radio access network and local access network, and on geography-based reporting of wireless outages in rural areas; and, refining the covered critical communications at airports subject to the Commission's outage reporting requirements.

DATES: Submit comments on or before August 26, 2016, and reply comments on or before September 12, 2016.

ADDRESSES: You may submit comments, identified by PS Docket No. 15–80 and 11–82, by any of the following methods:

- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/*. Follow the instructions for submitting comments.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. See the **SUPPLEMENTARY INFORMATION** Section for more instructions.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** Section of this document.

FOR FURTHER INFORMATION CONTACT: Brenda D. Villanueva, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–7005, or *brenda.villanueva@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM), FCC 16–63, adopted May 25, 2016, and released May 26, 2016. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554 or via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* The full text may also be downloaded at: *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf.*

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis of Further Notice of Proposed Rulemaking

In this document, the Federal Communication Commission (Commission) seeks comment on proposals to modernize its outage reporting rules to increase its ability to detect adverse outage trends and facilitate industrywide network improvements. The Commission seeks comment on whether and how to update its part 4 outage reporting requirements to address broadband, an increasingly essential element in our nation's communications networks, along with other streamline proposals. This action seeks to ensure that the outage reporting system keeps pace with technological change and addresses evolving consumer preference impact in order to be better equipped to promote the safety of life and property through the use of wire and radio communication.

In a companion document, a *Report and Order* and *Order on Reconsideration* in PS Docket No. 15–80, and ET Docket No. 04–35, respectively, the Commission adopts several proposals in a *Notice of Proposed Rulemaking* in 2015, and resolves several outstanding matters related to its adoption of the part 4 rules in a *Report and Order* in 2004.

I. Further Notice of Proposed Rulemaking

1. As service providers transition from legacy network facilities to IP-based networks, the Commission must continue to safeguard the reliability and resiliency of all of these interrelated systems. As we have observed before, broadband networks and services increasingly characterize the environment for the nation's 9–1–1 and NG911 emergency communications and, thus, are central to the nation's emergency preparedness, management of crises, and essential public safety-related communications. To meet the challenge of assuring broadband networks in order to carry out its foundational public safety mission, the Commission must maintain visibility into TDM-based networks while simultaneously ensuring similar visibility into commercial IP and hybrid networks. Our current part 4 rules establish outage reporting requirements that are in many ways centered on "circuit-switched telephony" and circuits that involve a "serving central office." The proposals in this FNPRM, among other things, aim to update the part 4 rules to ensure reliability of broadband networks used to deploy critical communications services, used both for emergency and non-emergency purposes. As discussed below, we believe the part 4 rules can likely provide the Commission with the necessary situational awareness about these broadband networks by updating them to (1) extend their application to broadband Internet access services (BIAS), and (2) revising the manner in which they apply to existing and future dedicated services to ensure a broadband emphasis. In this FNPRM, we propose to use the term "dedicated service" to refer to those services defined in 2013's *Special Access Data Collection Implementation Order, i.e.,* "service that 'transports data between two or more designated points, *e.g.,* between an *End User*'s premises and a point-of-presence, between the central office of a local exchange carrier (LEC) and a point-of-presence, or between two *End User* premises, at a rate of at least 1.5 Mbps in both directions (upstream/downstream) with prescribed performance requirements that include bandwidth, latency, or error-rate guarantees or other parameters that define delivery under a *Tariff* or in a service-level agreement.' ").These actions, we believe, will ensure that the Commission's ability to monitor communications reliability and resiliency keeps pace with technological change and the broadband-based capabilities and uses of today's evolving networks.

2. More specifically, we: (i) Seek comment on proposed reporting requirements, metrics, and narrative elements for both BIAS and dedicated services outages and disruptions, including for network performance degradation; and (ii) propose to amend the Commission's existing outage reporting requirements for interconnected VoIP to reflect disruptions resulting from network performance degradation. In addition, we seek further comment on two proposals raised in the *Notice* and aimed at increasing our awareness of certain outages: (i) Reporting call failures in both the wireless and wireline/interconnected VoIP access networks; and (ii) reporting outages that affect large geographic areas but do not trigger the user-minute threshold because of sparse population. We also seek comment on establishing outage reporting triggers for certain airport communications assets ("special offices and facilities") designated as TSP Level 3 and Level 4 facilities. Finally, we seek to determine the most cost-effective approaches to accomplish these objectives, and accordingly seek comment on potential costs and benefits associated with each proposal in the FNPRM. To that end, commenters should provide specific data and information, such as actual or estimated dollar figures, and include any supporting documents and descriptions

of how any data was gathered and analyzed.

3. The nation's transition from legacy (*i.e.*, TDM-based) communications platforms to IP for communications services has been steadily progressing since the last time the Commission expanded its outage reporting requirements to include "newly emerging forms of communication" in 2004. For one thing, consumers have significantly increased their dependence on broadband networks. Beyond consumer technologies, important sectors are relying increasingly on interconnected VoIP and broadband services. Indeed, in 2016, broadband service is a central part of most Americans' lives.

4. Reliance by enterprise customers on dedicated services also continues to increase, reflecting the rapid transition of the nation's businesses and governmental institutions to broadband powered communications. As we recently observed in the *Special Access* proceedings, such services are "an important building block for creating private or virtual private networks across a wide geographic area and enabling the secure and reliable transfer of data between locations." They can also "provide dedicated access to the Internet and access to innovative broadband services." They are used by mobile wireless providers to backhaul voice and data traffic from cell sites to their mobile telephone switching offices. Branch banks and gas stations use such connections for ATMs and credit card readers. Businesses, governmental institutions, hospitals and medical offices, and even schools and libraries use them to create their own private networks and to access other services such as Voice over IP (VoIP), Internet access, television, cloud-based hosting services, video conferencing, and secure remote access. Carriers buy them as a critical input for delivering their own customized, advanced service offerings to end users. We believe it is critical that our outage reporting rules, long applicable to communications services such as special access, continue to provide an appropriate measure of network resiliency, reliability and security assurance for today's and tomorrow's broadband network services.

5. The Commission has long recognized the importance of these trends for outage reporting. In 2010, the *National Broadband Plan* called on the Commission to extend part 4 outage reporting rules to broadband Internet service providers and interconnected VoIP service providers, citing a "lack of data [that] limited our understanding of network operations and of how to prevent future outages." The following year, the Commission proposed to safeguard reliable 911 service by extending outage reporting rules to broadband Internet access service (BIAS) and backbone Internet service as well as interconnected VoIP service. In the *2012 Part 4 VoIP Order*, the Commission adopted rules to extend reporting requirements to interconnected VoIP service providers for outages resulting in a complete loss of service, but deferred action on the remaining proposals. At the time, the Commission indicated that its proposals to extend outage reporting obligations to broadband providers "deserve[d] further study."

6. Numerous commenters in this and other proceedings have urged the Commission to closely monitor changes in network reliability as 911 networks migrate to IP, and others assert that some communities are increasingly dependent upon robust mobile broadband connectivity to deliver, in part, public safety services necessary for modern life. As federal funds are spent to ensure deployment of broadband, *e.g.*, through programs such as the Connect America Fund, we expect recipients of these funds to build out networks that serve the public interest through reliable access to critical communications, *e.g.*, 911. The U.S. Government Accountability Office (GAO) recognized that "[t]he communications sector is transitioning from legacy networks to an all-Internet Protocol (IP) environment, leading consumer and public safety groups, among others, to question how reliably the nation's communications networks will function during times of crisis." Echoing the Broadband Opportunity Council, in its 2015 report GAO questioned whether the Commission can currently fulfill its information needs through existing efforts to collect comprehensive, nationwide data on technology transitions, and recommended that we develop a strategy and gather information on the "IP transition to assess its potential effects on public safety and consumers." It also noted that this "would help [the Commission] address these areas of uncertainty as it oversees the IP transition," and enable "data-driven decisions." We agree and seek comment below on mechanisms to improve the quantity and quality of data collected on the impact of increased broadband availability and usage.

7. In the fulfillment of its public safety responsibilities, no context is more important for the Commission to research and monitor the technology transition than in the deployment of IP-based Next Generation 911 (NG911) networks. NENA's i3 architecture has become the *de facto* standard for NG911 network design, in which voice, text, and data communications to, from, and between PSAPs operate over an Emergency Services IP network (ESINet). The Commission has observed that "new capabilities will enhance the accessibility of 911 to the public (*e.g.*, by enabling video and text-to-911 for persons with speech and hearing disabilities), and will provide PSAPs with enhanced information that will enable emergency responders to assess and respond to emergencies more quickly." Service providers typically market such improvements to 911 as a way to offer better service at lower cost and an opportunity to phase out obsolete technologies.

8. Nevertheless, we acknowledge that "evolving technology, while providing many benefits to PSAPs and the public, also has introduced new and different risks." For example, 911 service can now be disrupted by software malfunctions, database failures, and errors in conversion from legacy to IP-based network protocols, and such disruptions can occur in unique parts of the IP network that lack analogous counterparts in legacy architecture. Moreover, the consolidation of critical resources in a small number of databases increases the risk of a 911 service failure that affects many PSAPs at once, even across state lines or potentially impacting all of a service provider's customers nationwide. Given the growing deployment of ESINets and the Commission's specific interest in monitoring the reliability and resiliency of PSAP connectivity, we believe that it is critical for the Commission to have visibility into the networks of all providers supporting ESINet service and other critical infrastructure to fully understand reliability and resiliency factors associated with public safety and critical infrastructure communications.

9. For both emergency and non-emergency services, broadband is now (or rapidly is becoming) the communications sector's essential transmission technology and, thus, "an integral component of the U.S. economy, underlying the operations of all businesses, public safety organizations, and government." These communications sector developments, both in NG911 deployment and in the nation's communications sector more broadly, illustrate how important it is that the Commission's outage reporting requirements evolve at a similar pace as the communications sector. As 911 services evolve toward NG911 combinations of voice, data, and video,

and as voice and data are exchanged over the same infrastructure, it is necessary for the Commission to refocus its lens for outage reporting and re-examine its part 4 reporting metrics to ensure that they collect the necessary data on the reliability of broadband networks. Access to such objective information would ensure that the evolution of critical communications services does not pose an obstacle to the Commission's established consumer protection, public safety, and national security statutory missions.

A. Broadband Network Outage Reporting

1. The Need for Updated Broadband Network Disruption and Outage Reporting

10. Broadband networks now provide an expanding portion of today's emergency and non-emergency communications and have technological flexibility that allows service providers to offer both old and new services over a single architecture. We observe that broadband networks come with their own advantages and challenges; particularly, outages and service disruptions can occur at both at the physical infrastructure and the service levels. We recognize that network outage or service disruptions at the application level in which various services are provided (*e.g.*, streaming video, video teleconferencing) have different performance and network management requirements than those at the physical network infrastructure level. Broadband networks are just as vulnerable to physical outages and service disruptions as the public-switched telephone network (PSTN), but are also susceptible to attacks at the application layer, which may not affect the underlying physical infrastructure. We seek comment on these observations as they relate to our proposed broadband outage reporting requirements.

11. We further observe that broadband networks' interrelated architectural makeup renders them more susceptible to large-scale service outages. Growing reliance on remote servers and software-defined control has increased the scale of outages, as compared to those in the legacy circuit switched-environment. Through news accounts, we have observed recent outage events impacting customers across several states. Moreover, broadband networks' architectural efficiencies can actually magnify the impact of customer service-affecting outages that do occur. For example, "sunny day" outages—caused by technical issues rather than by environmental ones—have been shown to jeopardize 911 communications services, sometimes across several states. Indeed, broadband networks can support centralized services, but, if not engineered well, they can harm resiliency objectives. We believe that these challenges will likely become more pronounced as broadband increasingly comes to define the nation's communication networks. This new paradigm of larger, more impactful outages suggests that there would be significant value in collecting data on outages and disruptions to commercial broadband service providers. We seek comment on this view.

12. Given the potential for broad-scale, highly-disruptive outages in the broadband environment—and particularly those impacting 911 service—the adoption of updated broadband reporting requirements would likely provide the Commission with more consistent and reliable data on critical communications outages and enable it to perform its mission more effectively in light of evolving technologies and service offerings. Over the past decade, review and analysis of outage reports have enabled the Commission to facilitate and promote systemic improvements to reliability, both through industry outreach, the CSRIC, and formal policy initiatives. The analysis of trends identified from our authoritative outage report repository has proven to be a useful tool for the Commission in working with providers to address outages and facilitate sector-wide improvements. As NG911 functionality becomes centralized within broadband networks, network vulnerabilities specific to emergency services will emerge, and the Commission should be well-informed of such vulnerabilities. We seek comment on this position.

a. Mandatory vs. Voluntary Reporting

13. In the *2011 Part 4 Notice,* the Commission asked whether and how outage reporting should to be extended to broadband. At the time numerous commenters challenged the idea, with some suggesting that mandatory outage reporting is not suitable for broadband packet-switched networks given built in redundancies, and the complexity of tracing disruptions to a single cause.

14. Where the Commission has required mandatory reporting of disruptions to IP communications (such as interconnected VoIP communications), 47 CFR 4.3(h), 4.9(g), we have found substantial value from that reporting. We believe that the same is true for other IP-based networks and services that have become such a typical feature of our communications networks. Additionally, in the *2012 Part 4 Order,* the Commission observed that "the record . . . reflect[ed] a willingness on the part of broadband Internet service providers to participate in a voluntary process" to improve the Commission's awareness of broadband outages and their impact on public safety. Over the past four years, broadband providers have not come forward with concrete proposals for such a process or even expressed such an interest in voluntary reporting. As with previous attempts at voluntary reporting, we are concerned that any voluntary regime for broadband outages would be unsuccessful in achieving a level of participation necessary to make the program effective. We seek comment on this position, and how to apply the lessons learned from our previous voluntary outage reporting regime. Finally, as the Commission observed in 2011, "even if incentives did motivate individual market participants to optimize their own reliability, they do not necessarily optimize systemic reliability." We believe that mandatory reporting of broadband network outages would motivate such optimization, and, thus, would advance the public interest. We seek comment on this view.

15. For the reasons set out above, we reaffirm our belief that mandatory reporting requirements would have a positive effect on the reliability and resiliency of broadband networks. Therefore, we tentatively conclude that broadband network outage reporting should be mandatory. We seek comment on this tentative conclusion and seek further comment on the issues first raised generally in the *2011 Part 4 Notice.*

2. Proposed Coverage of Broadband Outages

16. In proposing updated broadband outage reporting rules, we must identify the appropriate set of broadband—and broadband-constituent—services, facilities, and infrastructure that are reasonably appropriate for reporting requirements. In the *2015 Open Internet Order,* we described the broadband communications environment to include a number of different market segments and services, including arrangements underlying those services. Among other things, we drew a distinction between networks and services deploying broadband capabilities provided to consumers, those deploying such capabilities to businesses and other enterprises, and those providing Internet backbone services. And we specifically excluded from broadband Internet access service

(BIAS) enterprise service offerings such as "special access services" and their functional equivalents and other non-BIAS services, *e.g.,* Internet access, interconnection, backbone service, traffic exchange, non-BIAS data services.

17. In the *Business Data Services/Special Access NPRM,* including its adjunct *2015 Data Collection,* we further described the "special access" or "dedicated services" that form critical portions of the broadband ecosystem, *i.e.,*—links that "enabl[e] secure and reliable transfer of data between locations." Although such services are already addressed in part 4 to some extent, which as noted above broadly defines those "communications services" subject to these rules, our part 4 reporting standards do not ensure that outage reporting illuminates broadband issues critical to functionality of these services. We believe that the public safety goals to be accomplished through Part 4 assurance for today's broadband communications world can best be advanced if we extend the scope of our rules to BIAS, for the first time, and update and clarify those requirements for dedicated services so that we receive broadband-specific outage information for those services, and that we ensure our requirements apply equally and neutrally regardless of technology or provider type. We seek comment on this view.

18. For broadband outage reporting purposes, we believe developing reporting metrics that clearly address this functionality to be critical to our continued ability to obtain situational awareness with respect to reliability of the Nation's most important communications services. For the reasons set forth below, we tentatively conclude that the public safety goals to be accomplished through Part 4 assurance for today's broadband communications world can most reasonably be advanced by extending those rules to cover BIAS, and by updating those requirements for measuring the reliability of dedicated services. In our view, these steps are likely to provide us with most if not all of the information reasonably necessary for purposes of our Part 4 mission, while avoiding the need to subject other service providers (such as Internet backbone providers) to these reporting requirements. Our proposal will also ensure that our requirements apply equally and neutrally regardless of technology or provider type. We seek comment on these views. By taking the actions now proposed, we believe we will have the ability to ensure greater broadband network reliability, resiliency, and security. We believe, thus, that this approach would ensure comprehensive outage reporting that, for BIAS and dedicated services, would encompass: (i) All customer market segments to include—mass market, small business, medium size business, specific access services, and enterprise-class (including PSAPs, governmental purchasers, carriers, critical infrastructure industries, large academic institutional users, etc.); (ii) all providers of such services on a technology neutral basis; and (iii) all purchasers (end users) of those services without limitation. We seek comment on this view.

a. Broadband Internet Access Service (BIAS)

19. The Commission defines BIAS in 47 CFR 8.2(a) as:

> [a] mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence . . . .

BIAS includes those services offered over facilities leased or owned, wireless or wireline, to residences and individuals, small businesses, certain schools and libraries and rural health entities. BIAS does not include enterprise service offerings, which are typically offered to larger organizations through customized or individually-negotiated arrangements, or special access ("dedicated") services. Some NG911 systems use BIAS to support critical functions like transmission of location information, making it of particular interest to the Commission as NG911 is rolled out. BIAS is also increasingly integral for everyday life; according to the Commission's latest broadband subscribership data, over 250,000,000 Americans purchase wireline or wireless (or both, typically) BIAS to meet an ever-expanding array of their communications needs. These services are essential for work, family and community activities, social engagements and leisure, and are increasingly vital for emergency services communications whether as voice, texting or other data transmission. Given BIAS' ubiquitous penetration throughout the American landscape and the multiple important emergency and non-emergency uses for which Americans consume BIAS, we recognize the same, if not higher, need for assurance through outage reporting under part 4 as we have long recognized for other communications services. We seek comment on this understanding and approach.

20. Existing part 4 rules define relevant providers to include "affiliated and non-affiliated entities that maintain or provide communications networks or services used by the provider," and require reporting of "all pertinent information on the outage." We seek specific comment on whether BIAS providers could be used as a central reporting point for all broadband network outages, *i.e.,* whether our part 4 assurance goals for broadband outage reporting can be effectuated through, or should be limited to, an approach in which only BIAS providers (as opposed to other entities providing networks or services) would be required to report. We ask commenters to address BIAS providers' services relationships with other providers (*i.e.,* entities that provide IP transport underlying the BIAS offering), and particularly whether, and the extent to which they share information (formally or informally) relevant to outage reporting. Do providers typically discuss or notify each other in the event of disruptions? Do or can BIAS providers enter into service level or other agreements that contain requirements that enable them to obtain adequate information concerning the source of outages that originate with such other providers? Should our rules impose an obligation on BIAS providers to provide such information in their part 4 reports?

21. In what way is the Commission's experience with entities that "maintain or provide communications networks or services used by the provider" (*e.g.,* for legacy voice communications or interconnected VoIP service) instructive in its consideration of these issues associated with BIAS outage reporting? Or, are there sufficient technical or operational differences between BIAS and entities already covered by part 4 as to warrant a new approach? If so, what are those differences and how should the Commission approach BIAS outage reporting to address those differences in ways that promote effective outage reporting? What actions could the Commission take to ensure that BIAS providers can obtain sufficient information in the event of a service outage about the source and cause of the outage? We also seek comment on whether a BIAS-only approach would sufficiently capture critical communications, *i.e.,* communications involving critical infrastructure, needed for NS/EP, or otherwise associated with public safety or emergency preparedness. If it does not, should the

Commission extend its reporting requirements directly to other entities that maintain or provide communications networks or services used by the BIAS provider?

b. Dedicated Services

22. In our *Dedicated Services/Special Access* proceeding, we have closely examined the evolving (in terms of scope, array and use of services) and expanding (in terms of participants, including new entrants) market for IP- and other data protocol-based packet services to enterprises and other segments and purchasers not included within the mass market level served by BIAS providers. These dedicated services power the fullest range of large data pipe (high capacity) services, *e.g.,* circuit-based TDM facilities like DS3s, or data network transmission (packet-based) facilities such as "Ethernet", and are deployed without geographic restraint (*i.e.,* in use for "last mile", "middle mile", "long haul", etc.). Although DS3s and DS1s, both of which are longstanding dedicated services "warhorses", have always been subject to outage reporting (as have other "two-way voice and/or data communications", 47 CFR 4.3(b)), our reporting rules may provide insufficient clarity as to non-TDM dedicated services such as "Ethernet." We seek to provide both broadband-specific reporting emphasis and scope of covered services clarity in this FNPRM. In the past, our rules and reporting emphasis under part 4 have been framed mostly by reference to legacy TDM special access circuits, which is certainly a segment of the services and infrastructure properly classified as "dedicated services." In this FNPRM, we now place clearer emphasis on broadband outages through new proposed metrics, thresholds and triggers, and also take steps to ensure all dedicated services providers—old and new—understand their compliance obligations under our rules.

23. To achieve this clarity and emphasis, we first seek comment on the following definition of "dedicated services" for outage reporting purposes:

> Services that transport data between two or more designated points, *e.g.,* between an end user's premises and a point-of-presence, between the central office of a local exchange carrier (LEC) and a point-of-presence, or between two end user premises, at a rate of at least 1.5 Mbps in both directions (upstream/downstream) with prescribed performance requirements that include bandwidth, latency, or error-rate guarantees or other parameters that define delivery under a Tariff or in a service-level agreement.

In addition to commenting on this proposed definition for part 4's purposes, we ask commenters whether there are any other descriptors needed to ensure both the clarity and breadth of the services that should be included within dedicated services for part 4 reporting assurance purposes.

24. Dedicated services are important components for creating private or virtual private networks across a wide geographic area, and for enabling the secure and reliable transfer of data between locations, including the provision of dedicated Internet access and access to innovative broadband services. Dedicated services, however,

> [are] distinctly different from the mass marketed, "best efforts" [BIAS] provided to residential end users, such as AT&T's U-verse or Comcast's XFINITY. Dedicated services typically provide dedicated symmetrical transmission speeds with performance guarantees, such as guarantees for traffic prioritization, guarantees against certain levels of frame latency, loss, and jitter to support real-time IP telephony and video applications, or guarantees on service availability and resolving outages. As such, dedicated services tends to cost substantially more than "best efforts" services and are offered to businesses, non-profits, and government institutions who need to support mission critical applications and have greater demands for symmetrical bandwidth, increased reliability, security, and service to more than one location.

25. As with BIAS, we seek comment on the extent to which those who provide dedicated services are in a position to inform the Commission of the source and cause of reportable outages. We believe that such providers are reasonably likely to be well-informed about these questions. Dedicated services providers also provision service "solutions" for other communications providers; for example, mobile providers use dedicated services to backhaul voice and data traffic.

26. With respect to negotiated terms and conditions for assurance, is it standard industry practice to inform dedicated services customers about the nature of any particular outage or performance issue that triggers assurance guarantees (*i.e.,* credits)? Does this also extend to inform such customers about any non-service impacting outages, regardless of the seriousness of the outages, or to inform customers as to the provider's overall performance using an established set of metrics? For example, are dedicated service customers interested in non-service impacting outages whose notification helps inform resiliency decisions or helps inform predictive risk mitigation actions based on a larger data set of observed failure modes? If so, how are such customer needs addressed through contract negotiations or, post-contract, through course of dealing between parties or by other means (*e.g.,* Industry Data Breach Annual Summaries, academic research, etc.)?

27. We recognize that variation between and among dedicated services providers, the services they provide, their customers' service needs and profiles, and other factors may indicate differences that we should consider with respect to the benefits and burdens of dedicated services outage reporting. Accordingly, we seek comment on such differences, and particularly their impact on relative costs and burdens for outage reporting.

28. In sum, to ensure the Commission can effectively discharge its public safety mandates and mission with respect to the communications networks and services upon which America's citizens, businesses and governmental organizations rely, we propose that BIAS providers be required to report outages pursuant to the Commission's part 4 rules, and we propose to update existing outage reporting metrics to reflect broadband disruptions involving dedicated services and provide clarity as to scope of covered services. We recognize that this approach may not capture the full scope of communications services, but we believe, at this time, that the costs of extending our outage reporting requirements beyond these services may exceed the benefits. We seek comment on this view. To the extent commenters believe that there are other communications providers that provide broadband-related services warranting part 4 outage reporting, we invite commenters to elaborate in detail.

3. Proposed Reporting Process for Broadband Providers

29. *Three-part submission process.* We seek comment on whether to apply the three-part structure used by other reporting entities under part 4 to covered broadband service providers. This process would require the provider to file a notification to the Commission within 120 minutes of discovering a reportable outage as further defined in Section V.B.; an initial report within 72 hours of discovery of the reportable outage; and a final report within 30 days of discovering the outage, similar to the process described in 47 CFR 4.9(a), (c)–(f) for cable, satellite, SS7, wireless, and wireline providers. Covered providers would submit all reports electronically to the Commission and include all of the information required by Section 4.11 of the Commission's rules. A notification would include: The name of

the reporting entity; the date and time of the onset of the outage; a brief description of the problem, including root cause information and whether there were any failures of critical network elements, if known; service effects; the geographic area affected by the outage and a contact name and telephone number for the Commission's technical staff. We note that this notification requirement is distinct from a covered 911 service provider's obligation to notify PSAPs in the event of an outage impacting 911 service, 47 CFR 4.9(h), and we defer discussion of those notification requirements to PS Docket Nos. 13–75 and 14–193. The initial reports would include the same information, and in addition, any other pertinent information then available on the outage, as submitted in good faith. Further, the provider's final report would include all other pertinent information available on the outage, including root cause information where available and anything that was not contained in or changed from the initial report.

30. *Reporting requirements concerning critical network elements.* Pursuant to the requirements of Section 4.11 of our rules, once an outage triggers a reporting requirement, there is certain information that we expect providers, acting in good faith, to include in their reports to the extent such matters are at issue in a given reportable event and the provider, through the exercise of reasonable due diligence, knows or should know the facts. We believe our concept of reportable outages must evolve as new events threaten the reliability and resiliency of communications in ways that can expose end users to serious risks, to that end we routinely update the NORS data fields to reflect changes in technology and seek to do so here. Specifically, we expect providers to include information in their reports concerning (1) the failure of facilities that might be considered critical network elements, and (2) unintended changes to software or firmware or unintended modifications to a database to the extent relevant to a given outage or service disruption that is otherwise reportable. We seek comment on this approach.

31. We propose to consider a network element "critical" if its failure would result in the loss of any user functionality that a covered broadband provider's service provides to its end users. For example, Call Agents, Session Border Controllers, Signaling Gateways, Call Session Control Functions (CSCF), and Home Subscriber Server (HSS) could be considered "critical" network elements. And, we believe that information concerning such failures uniquely provides a sharper network and service vulnerability focus that would further the Commission's public safety and related missions by enhancing the Commission's situational awareness and network operating status awareness. We seek comment on this assessment. We seek comment on these views and on this reporting approach. Additionally, we propose that to the extent unintended changes to software or firmware or unintended modifications to a database are revealed as part of reportable disruptions, we should be apprised of those facts through the outage reports providers submit.

32. As with events involving critical network element failure, we propose to modify the NORS interface to support information regarding outages and disruptions that are associated with unintended changes to software or firmware or unintended modifications to a database. This is consistent with our customary practice of updating NORS information fields as technologies and services evolve. Thus, if unintended changes to software or firmware or unintended modifications to a database played a role in causing an otherwise reportable outage, we would expect providers' reports to include specific detail about the nature of the associated facts. The Commission seeks comment on what information would be useful to understand these exploitations. Would it be helpful for us to use open fields so that outages can be described in terms defined by the provider acknowledging that these may differ from provider to provider? We seek comment on this approach. We recognize that unintended changes to software and firmware and unintended modifications to a database may not always manifest themselves in the form of reportable communications "outages" as traditionally defined by the Commission or as we propose for broadband outage reporting. Are there additional data drop-down menu fields we should consider beyond those proposed above that would provide significant information about broadband outages? Would it be useful to establish pre-defined elements in the reporting metrics that would provide the Commission with more consistent failure information that would improve long-term analysis about unintended changes to software and firmware or unintended modifications to a database that would not otherwise be reported to the Commission? For example should the Commission receive information on distributed denial of service (DDoS) attacks in order to support an improved correlation should multiple outages involve DDoS as a contributing factor?

33. Should we expand our definition of Part 4 outages to include failures that are software-related or firmware-induced, or unintended modifications to a database that otherwise do not trigger hard-down outages or performance degradations as described below? For example, should a route hijacking that diverts packets to another country, but still delivers the packets to the consumer be a reportable outage? If so, we seek comment on this position. What process should be followed to make the Commission aware of such disruptions? Would such a requirement be unnecessary were the Commission to adopt proposed data breach reporting requirement proposed in the *Broadband Privacy Notice of Proposed Rulemaking,* WC Docket No. 16–106?

34. We seek broad comment on updates to our traditional NORS reporting processes and expectations when reportable broadband outages involving unintended software or firmware changes or unintended modifications to a database occur. We ask commenters to address whether valid public safety, national security, economic security or other reasons support the kind of granular reporting features we now describe for broadband, and whether such reasons justify treating broadband outage reporting differently from non-broadband outage reporting. Do commenters believe that alternative approaches should be explored that could ensure that the Commission receives all useful outage and disruption causation information in a timely and cost-effective manner?

35. Also, as discussed below, we propose to adopt the same reporting approach for interconnected VoIP providers as we have for legacy service providers (*i.e.*, a notification, interim report and final report). We seek comment on this proposal. Alternatively, we seek comment on whether all reporting (*i.e.*, legacy, broadband and interconnected VoIP) should be adjusted to a two-step process. Are there other similar steps that we should consider that would ensure adequate reporting in reasonable, appropriate time intervals across the various technologies at issue for reporting?

36. We seek comment on other steps the Commission can take to make providers' reporting obligations consistent across services or otherwise streamline the process. As with other covered providers in § 4.9, we seek comment on whether 9–1–1 special facilities are served by BIAS and dedicated services providers such that a

reporting requirement when 9–1–1 special facilities experiences a reportable outage or communications disruption would be warranted. Similarly, each covered provider in part 4 is required to report outages and communications disruptions to special offices and facilities (in accordance to § 4.5(a) through (d)). We seek comment on whether special offices and facilities are served by BIAS and dedicated services providers such that a reporting requirement when these experience a reportable outage or communications disruption would be warranted. One potential benefit of the transition to more advanced communications technologies is the ability to automate processes that historically have required a significant amount of manual processing. We seek comment on whether there are ways of automating the outage reporting process beyond what has been possible or has been attempted in the context of legacy communications services. How could such automated reporting be accomplished? What are the advantages of such a reporting mechanism? What are the disadvantages? What cost savings would result from any such automation?

4. Proposed Metrics and Thresholds for Broadband Network Outage Reporting

a. “Hard Down” Outage Events Metrics and Thresholds

37. By “hard down” outage events, we refer to outages that result in loss of service, as opposed to performance degradations discussed below. In determining the appropriate metrics and thresholds for our broadband outage reporting proposals, we initially sought comment on the method for calculating the “user minutes” potentially affected by a broadband outage. In the *2011 Part 4 Notice,* we proposed using potentially-affected IP addresses as a proxy for the number of potentially affected users. At least one commenter claimed using IP addresses would tend to overstate the impact of an outage, and advocated using subscriber counts instead. More recently, in response to our proposal for major transport facility outage reporting, Comcast recommended using a “bandwidth-based standard” as a potential replacement for our user-minute metric used for major transport facility outage reporting. In light of technological advances, we now seek to revisit this issue.

38. We further propose a throughput-based metric and threshold for “hard down” outage events. We propose to define “throughput” as the amount of information transferred within a system in a given amount of time. In light of significant changes in technology and the characteristics of broadband networks generally, we believe that it is appropriate to tailor our approach with respect to the identification of a threshold event for hard-down outages. Since part 4 was first enacted, the communications network architecture and elements, and the services carried over those networks, have grown more diverse and require increased throughput. The Commission currently uses DS3 as the unit of throughput with which to calibrate our reporting threshold for major transport facility outages. The companion document, Report and Order, adopts an updated metric, changing the standard from DS3 to OC3. Given the accumulating amount of throughput required to deliver today’s broadband services, we believe that 1 Gbps would function as a modern-day equivalent of the DS3 (45 Mbps) unit originally adopted in 2004, we now calculate that a gigabit can support nearly 24DS3s or 16,000 DS0s (64 Kbps voice or data circuits). This can be seen in the increased deployments of residential communications services offering up to 1 Gbps in download speeds. As such, we tentatively conclude that the threshold reporting criterion for outages should be based on the number of Gbps minutes affected by the outage because Gb is a common denominator used throughout the communications industry as a measure of throughput for high bandwidth services. We further propose to introduce a broadband metric calibrated with the current 900,000 user minute threshold. In today’s broadband environment, a typical user requesting “‘advanced telecommunications capability’ requires access to actual download speeds of at least 25 Mbps.” Accordingly, we calculate that if a facility with throughput totaling 1 Gbps providing individual users 25 Mbps of broadband capacity each, experienced a disruption to communications resulting in a complete outage, 40 individual users would be impacted. We calculate that 1Gbps in throughput total, which is converted to 1,000 Mbps, is divided by 25 Mbps as the download speed for each user, would result in a total of 40 individual users impacted by an outage event. In establishing a gigabit per second user minute threshold, we calculate that 900,000 user minutes divided by the 40 individual users impacted by the outage, results in 22,500 Gbps user minutes. The 22,750 Gbps user minute figure was derived from the current threshold-reporting criterion of “900,000 user minutes.” Assuming a 25 Mbps broadband user connection, as stated in the 2015 Broadband Progress America report, being delivered over a 1 Gbps facility, we compute: 1 Gbps divided by 25 Mbps equals 40 broadband user connections. Then, 900,000 user minutes divided by the number of impacted broadband user connections, 40, equals 22,750 Gbps user minutes. This means that an outage event would become reportable when it resulted in 1 Gbps of throughput affected in which the event exceeds 22,500 Gbps user minutes. To determine whether an outage event is reportable using this threshold, we multiply the size of the facility measured in Gbps, by the duration of the event measured in minutes, and this total generates a Gbps user minute number. If this user minute number exceeds 22,500, then the outage event is reportable to the Commission. So for example, if a 1 Tbps (terabits per second) facility experienced a disruption for 45 minutes, we would multiply 1000 by 45 minutes to get 45,000 Gbps user minutes, and since this figure exceeds 22,500 Gbps user minutes, the outage event would be reportable. We seek comment on the analysis presented, which would establish a reporting threshold of an outage of 1 Gbps (gigabit per second) lasting for 30 minutes or more.

39. We seek comment on a throughput-based metric and its advantages or disadvantages over a user-based metric, for example, a 900,000 user-minute metric that treats broadband users for measurement purposes as those broadband end users that have no service. We also seek comment on whether a throughput-based metric would be more appropriate for some networks rather others. For instance, would our proposed 1 Gbps throughput threshold be appropriate for both BIAS and dedicated services? If not, why not? Should we consider a throughput-based metric for BIAS networks set at a lower threshold, such as 25 megabits per second (Mbps)? Would this result in an unacceptably small number of outages reports? How well would a threshold of 1 Gbps or greater lasting for 30 minutes or more reflect the geographic scope and impact of an outage and the number of subscribers impacted by an outage? Would a user-minute based threshold better capture the geographic scope and impact of an outage and the number of subscribers impacted? Does using a throughput metric in lieu of potentially-affected IP addresses, or that of subscriber count, as described below,

provide better information to the Commission? Would a throughput metric be less or more burdensome for providers than a user-based one? If so, why? How might the increasing availability of Gbps services affect the usefulness of throughput as an outage indicator? Is there a better throughput threshold than 1 Gbps or greater lasting for 30 minutes or more? If so, what would it be?

40. In addition, we revisit the 2011 proposal to use potentially-affected IP addresses as a proxy for the number of potentially affected users. If we were to adopt the 2011 proposal, would the metric overstate the impact of an outage? If so, by how much would the outage impact be overstated? How well could a potentially-affected IP addresses threshold effectively communicate the geographic scope and impact of an outage and the numbers of subscribers impacted? Would the increasing deployment of IPv6 addresses affect the utility or accuracy of this proposed metric, and if so, how? Would using subscriber counts as a proxy for number of users be a more accurate metric to determine the impact of an outage? In what ways do providers measure the number of subscribers now? Do providers measure broadband subscribers apart from other types of subscribers? If so, why? Which new subscribers would be counted under the proposed rules that were not previously counted? Should we consider unique subscriber-based metrics for BIAS and dedicated services provider? In instances of outage events lasting less than 30 minutes, should we consider whether subscriber-based metrics should be more indicative of a network outage impacting a large metropolitan area or geographic region? What benefit would this add to our proposed broadband outage reporting rules? Do current provider subscriber counts measure the total number of subscribers served at any given time? Are provider subscriber counts verified at the occurrence of an outage or disruption? What difficulties, if any, would covered broadband providers experience in applying a subscriber-based metric?

b. Performance Degradation Outage Events Metrics and Thresholds

41. The following section addresses requirements to report outage events in cases of significant degradation of communication. We tentatively conclude that outage events are reportable when there is a loss of "general useful availability and connectivity," even if not a total loss of connectivity. We propose a series of metrics and thresholds that we believe could identify outage events that significantly degrade communications: (1) A combination of packet loss and latency metrics and thresholds, and (2) a throughput-based metric and threshold. Finally, we seek comment on the appropriate locations for significant degradation of communication measurements.

(i) "Generally Useful Availability and Connectivity"

42. Consistent with the part 4 definition of an "outage," in 47 CFR 4.5(a) (defining an "outage" as "a significant degradation in the ability of an end user to establish and maintain a channel of communications as a result of failure or degradation in the performance of a communications provider's network), we again seek comment on whether covered broadband providers should be required to report disruptions that significantly degrade communications, including losses of "generally useful availability and connectivity" as measured by specific metrics. We propose to define "generally useful availability and connectivity" to include the availability of functions that are part of the service provided (*i.e.,* "service functionality"). We tentatively conclude that outage events experiencing significantly degraded communications include those events with a loss of generally useful availability and connectivity, and seek comment on this tentative conclusion.

43. In 2011, ATIS stated that losses of "generally useful availability and connectivity" not resulting in a complete loss of service should not be reportable under the part 4 rules, arguing that such events are "more akin to static/noise on legacy communications systems or error rates in DS3 lines . . ." However, the loss of "generally useful availability and connectivity" in the broadband context would appear to be more akin to a legacy voice call during which the users cannot hear or make themselves understood, tantamount to a complete loss of service. This threshold may be even more recognizable in a digital context where effective bandwidth minimums are well understood. Accordingly, we reintroduce the Commission's 2011 proposal to require covered broadband providers to report on losses of 'generally-useful availability and connectivity' to capture analogous incidents where customers are effectively unable to use their broadband service. We seek comment on this proposal.

44. We also seek comment on possible alternatives or additional metrics of generally-useful availability and connectivity. For instance, should the Commission create a reporting metric based on loss of network capacity? If so, how should the Commission quantify a loss of a network capacity for reporting purposes, and what would be an appropriate reporting threshold? Should we consider a metric measuring the average relative bandwidth, where providers would compare the active bandwidth against the provider's bandwidth advertised or offered? Could such a metric be quantified for reporting purposes? If so, what would be an appropriate reporting threshold? What other metrics should the Commission consider?

(ii) Metrics for Performance Degradation

45. In addition to the metrics for generally-useful availability and connectivity, we seek comment on potential broadband outage reporting metrics to measure significant performance degradation in communications. In this regard, we propose two sets of proposals. We propose a throughput metric and seek comment on the appropriate thresholds; or, propose an alternative metric based in a combination of three core metrics, throughput, packet loss, and latency, and seek comment on the appropriate thresholds. Moreover, we seek comment on the extent potential metrics for generally-useful availability and connectivity may overlap with the proposed metrics for significant performance degradation in communications.

46. First, given that throughput is widely recognized as a key metric for measuring network performance, we propose using a throughput metric threshold at 1 Gbps for a network outage or service disruption event lasting 30 minutes or more. In addition to the use of a throughput metric for hard down outages described above, a throughput metric can also determine when a significant degradation occurs in a network, as transmission rates decline as network congestion increases. In addition to throughput, we seek comment on the utility of two other metrics to indicate broadband network performance degradation: Packet loss and latency. Can a proposed 1 Gbps event lasting for 30 minutes threshold capture instances in which the network suffers an outage or experience degradation in network performance? Would it be more appropriate to maintain the 900,000 user-minute threshold for throughput? If so, why? How would it be determined and calculated to be equivalent to a throughput-based metric of 1 Gbps threshold? How would maintaining the

900,000 user-minute threshold capture and account for the complexities found in broadband networks and the outages occurring on those networks? We also seek comment on whether a throughput threshold for performance degradation should require a carrier's average throughput to drop a nominal percentage, say 25 percent, below normal levels. How would such a threshold be measured and reported should this threshold be reached? Would this effectively capture the impact to network subscribers and facilities? Is a nominal drop of 25 percent in average throughput thresholds indicative of noticeable network performance degradation? We seek comment on this approach.

47. We seek comment on a second proposal looking at these proposed core metrics—packet loss, latency, and throughput. To what extent do covered broadband providers already collect information on packet loss, latency, and throughput? Are any of the metrics better suited than others at measuring loss of generally-useful availability and connectivity of broadband service? Are there any alternate performance metrics that would more effectively capture network outages or performance degradation? If so, what are they and do these providers already capture these metrics? Are any of the metrics more cost-effective to monitor than others, and if so, which are they and why?

48. We further propose to limit the scope of outage filings to those events that affect customer communications. We seek comment on this approach. In addition to packet loss, latency, and throughput, we seek comment on whether there are other metrics and thresholds that would be indicative of events impacting customer communications, and comment about other appropriate indicators that might better reflect when these communication services are disrupted. Are there existing measurement efforts regarding network performance and assurance conducted by the Commission that would provide better guidance in determining reporting thresholds for broadband network outage reporting? How are these other performance and assurance measurements aligned with our proven public safety and reliability efforts in our current part 4 outage reporting efforts? How does the use of these network performance metrics complement or conflict with other efforts at the Commission? The Commission is providing guidance across a number of areas regarding network performance metrics and measurements ensuring users receive adequate and expected network performance from their service subscriptions.

49. Alternatively, should we consider adopting more specific, absolute thresholds for packet loss, latency, and throughput to measure significant performance degradation of communications? In 2011, the Commission proposed that service degradation occurs whenever there is a noticeable decline in a network's average packet loss; or average round-trip latency; or average throughput of 1 Gbps, with all packet loss and latency measurements taken in each of at least six consecutive five-minute intervals from source to destination host. If absolute thresholds are preferable, how would these particular thresholds be calculated and determined? Would an absolute threshold still be appropriate with current broadband systems? How could the reporting thresholds for packet loss, latency, and throughput be set at appropriate levels? If any of these thresholds should be adjusted, what is an appropriate threshold? Should the requirement to take performance measurements in six consecutive five-minute intervals be modified? If so, how?

50. We also seek comment on whether these metrics support a consistent reporting standard across all broadband provider groups. The Commission recognizes that there may be different metrics for performance degradation for different services and that a "one size fits all" approach to determining appropriate metrics and thresholds indicating the health and performance of broadband networks and services may not be appropriate depending on underlying quality of service and network performance requirements. Are these metrics (packet loss, latency, and throughput) appropriate to evaluate performance for both BIAS and dedicated services? Alternatively, are these metrics unique to either BIAS or dedicated services, but not appropriate for both? We also seek comment on whether and how the proposed metrics should differentiate mobile broadband from fixed broadband. Are there unique attributes of mobile broadband that we should consider for our outage reporting purposes? For example, will application of these metrics to mobile broadband result in too many instances where, although a threshold is passed, there is no major problem with the network? Why or why not? Are other network performance metrics more suitable for mobile broadband than fixed broadband, and if so, what are they?

(iii) Measurement of Performance Degradation

51. We also seek comment on the end points from which covered broadband providers would measure whether there is performance degradation. In the case of BIAS providers, we believe that these metrics should be measured from customer premises equipment to the destination host. For dedicated services providers, we believe that the metrics should be measured from the closest network aggregation point in the access network (*e.g.*, DSLAM serving DSL subscribers) to the closest network facility routing communications traffic or exchanging traffic with other networks (*e.g.*, PoP, gateway).

52. We seek comment on these tentative conclusions, and on whether these end-points for measurement are appropriate for their corresponding services, as well as the use of the term "destination host" for all providers. Does "destination host" appropriately cover the various types of network facilities used by covered broadband providers to connect to their customers and/or exchange traffic with other networks? Where in a BIAS network should the measurements take place to record the measurements most accurately? In a dedicated services network? At what level of aggregation should the measurements be taken in the BIAS and dedicated services networks? What is the best way to determine the measurement clients and servers are correctly chosen to accurately measure the proposed metrics? Are there other terms that would better describe the point where network traffic is routed and aggregated from several endpoints (*e.g.*, network aggregation point) for either type of service? For example, should we follow the performance metrics established under the Measuring Broadband America program or other broadband measurement metrics developed by the Commission? We also seek comment on a scenario in which the "destination host" is on another BIAS provider's network. In that case, how would the original BIAS provider detect an outage on its network path? We seek comment on this scenario and anything else the Commission should consider with respect to network end-points.

5. Broadband Reporting Confidentiality and Part 4 Information Sharing

53. Currently, outage reports filed in NORS are withheld from routine public inspection and treated with a presumption of confidentiality. We propose to extend this same presumptive confidential treatment to

any reports filed under rules adopted pursuant to this FNPRM, including broadband outage reporting filings. We recognize, however, that this approach of presumed confidentiality may need to evolve as networks, and consumer expectations about transparency, also evolve. Accordingly, we seek comment on the value and risk of increased transparency with respect to information about, or select elements of NORS reports filed under the current part 4 rules and any additional rules adopted pursuant to this FNPRM.

54. As noted in the Report and Order companion document, we believe that the proposal of sharing NORS information with state and other federal entities requires further investigation, including where state law would need to be preempted to facilitate information sharing. The Commission currently only shares access to the NORS database with DHS.

55. To assist the Commission, we direct the Bureau to study these issues, and develop proposals for how information could be shared appropriately with state entities and federal entities other than DHS. Accordingly, we seek comment on the current reporting and information sharing practices of broadband and interconnected VoIP providers with state governments and other federal agencies. To which agencies and States do providers already report? To what extent is reporting mandatory? What information on outages or communications disruptions do providers report to other federal and state government bodies? What triggers the reporting process? What are the strengths and weaknesses of any existing reporting and information sharing processes? Could any such processes provide an avenue for the Commission to acquire data that it would otherwise receive under the proposed rules? If so, how? What else should the Commission consider regarding the current reporting and information sharing practices of broadband or interconnected VoIP providers? Commenters should address the impact of any other information sharing activities on the part 4 mandates proposed herein, and how these requirements might be tailored to ensure compliance without undue imposition on those other information sharing activities.

56. We seek comment on how the Commission can strike the right balance between facilitating an optimal information sharing environment and protecting proprietary information. Our goal is to foster reciprocal sharing of information on broadband network outages with federal and state partners, while maintaining confidentiality among those partners and of information contained in the outage reports. To ensure that the Commission benefits from information that providers make available to other federal agencies or state governments, should we encourage covered broadband and interconnected VoIP providers to provide the Commission with copies of any outage reporting that they currently provide to states or other federal agencies, to be treated in the same manner (*i.e.*, confidential or non-confidential) as the entity receiving the original report? Are there alternative methods toward sharing this information? Should we ask our federal and state government partners to provide a preferred path toward sharing this information? We recognize that other federal and state agencies may have different requirements for licensees and FCC regulated entities, and we seek comment on the wider regulatory landscape in which broadband providers may or may not already be reporting outages. Are there special considerations required for the new filings or information collected that the Commission has not previously accommodated for part 4 providers? If so, what adjustments to our original information sharing proposals in the *Notice* should be made for these new NORS filings and information collected?

6. Cost-Benefit Analysis for Broadband Network Outage Reporting

57. In the *2012 Part 4 Order*, the Commission deferred action on several broadband outage proposals because they were "sharply opposed by industry on several bases, but especially based on the expected costs." In this FNPRM, we seek to update the record on the costs of implementing broadband outage reporting, and also seek comment on the costs of compliance with any additional reporting requirements considered herein. We also seek comment on the costs associated with any alternative proposals or unintended modifications to proposals set out by commenters. Specifically, we invite comment on the incremental costs of detecting and collecting information on the outage thresholds described above; the costs of filing reports in NORS; and the costs associated with any additional reporting or other requirements the Commission may adopt to promote network reliability and security. Comments in this area should not focus on new equipment but on the cost of modifying existing outage detection systems to detect and notify the Commission on observed outages meeting reporting thresholds proposed in this FNPRM.

a. Costs of Detecting and Reporting Outages

58. We first consider the costs associated with detecting and collecting information on reportable outages under the proposed rules. As a general matter, we agree with the 2011 comments of the National Association of State Utility Consumers Advocates (NASUCA) and the New Jersey Division of Rate Counsel, who observe that VoIP and "broadband [providers] should already be collecting outage-related data in the normal course of conducting their businesses and operations." We believe this to be as true today as it was in 2011 in light of service providers' public assurances of network performance and reliability. If covered broadband providers already collect internal data to support claims of high network reliability through advertising, we anticipate that they would be able to provide the Commission with similar information at minimal incremental cost. For this reason and others discussed below, we do not believe that requiring covered broadband providers to submit outage data would create an unreasonable burden.

(i) Outages Defined by Threshold Events

59. To begin, we note that nearly all providers already have mechanisms in place for determining when an outage occurs and when it surpasses a certain threshold, and if a provider does not, in today's wired world it would not impose significant cost to install such a mechanism. In fact, the record reflects that providers routinely monitor the operational status of their network as part of the normal course of business. Verizon, for instance, explained in 2011 that it "has significant visibility into its broadband networks." We believe that any provider with "significant visibility" into its network already has the ability to detect network failures or degradations that result in a total loss of service for a large number of customers. Commenters appear to concede this view. Both ATIS and AT&T proposed alternative reporting schemes that would require reporting on total losses of broadband service, and AT&T submits that its proposed scheme would be "unambiguous and easy-to-apply." CenturyLink likewise admits that "reporting by a broadband Internet access service provider where there is a loss of connectivity to the Internet by end-users is reasonable." Comments like these, along with ubiquitous advertising on network reliability and performance generally, suggest that the regime

described above to report total losses of broadband service would not impose significant additional burdens on providers. We seek comment on this discussion.

(ii) Outages of "Generally Useful and Available Connectivity"

60. In 2011, industry commenters identified data collection costs as the most significant cost burden of the proposed rules for performance degradation events. However, we note that the proposed reporting based on loss of "generally-useful availability and connectivity" does not concern every degradation in performance an individual user experiences, but is instead designed to capture incidents in which service is effectively unusable for a large number of users or when critical facilities are affected. We seek further comment on the extent to which providers already collect performance degradation data for internal business purposes. In 2011, covered VoIP and broadband providers were already monitoring QoS metrics, like packet loss, latency and jitter, to assess network performance for certain customers. Today, providers collect network performance information as a necessary part of fulfilling their SLA duties for particular customers, and more generally, providers have significant incentives to track these metrics as part of their network, service, and business risk assurance models. In other words, providers' existing approaches for network data collection for premium customers likely already captures losses of "generally-useful availability and connectivity," and we believe similar techniques could be expanded to monitor network performance on a broader scale. By building on existing provider practices and harnessing technological developments in network monitoring, we believe that the proposals for broadband reporting requirements described herein would not be unduly costly.

61. Because providers already routinely collect much of this data, we believe that the cost of compliance of additional rules would be only the cost of filing additional reports. We seek comment on this discussion. If providers do not collect this data, is there similar or comparable data that providers already collect, or could collect at minimal expense, that would be as cost-effective as data they would report under the proposals outlined above? If so, what data, and would it provide the Commission with adequate visibility into events that cause a loss of generally-useful availability and connectivity for significant numbers of broadband users? What would the cost be of this comparable data?

62. We seek comment on whether we should implement a prototype phase of two years whereby providers would be given significant latitude to determine a qualifying threshold for the "generally useful availability and connectivity" standard. While mandatory reporting would remain, the data collected would positively inform standards in this category that would be broadly applicable to the Commission's needs in this area yet closer to what the reporting companies use for their own operations, thereby reducing potential costs for providers. We seek comment on this analysis.

b. Costs of Filing Outage Reports

63. While we anticipate that the costs of filing reports under the proposed rules—*i.e.*, of reformatting and uploading information in the NORS database—would not impose an unreasonable burden on covered broadband providers, we seek comment on the specific costs. Outage reports are currently filed in the Commission's web-based NORS database using simple and straightforward "fill-in-the-blank" templates. NORS currently accepts reports for legacy service outages (wireline, wireless, etc.), as well as interconnected VoIP "hard down" outages. We expect that any reports from covered broadband providers pursuant to rules ultimately adopted in this proceeding would adhere to the same efficient and streamlined process.

64. In light of growing overlap in corporate ownership of telecommunications network and service offerings, we expect that the inclusion of broadband service under part 4 would largely extend reporting obligations to providers already familiar with reporting via NORS and with internal processes in place for filing reports. We recognize that entities without prior experience reporting in NORS, either themselves or through affiliates, may incur some startup costs, *i.e.*, of establishing a NORS account and training personnel in the use of NORS. We seek comment on this analysis and what specific startup costs would be.

65. Furthermore, we believe the overall cost to providers of filing disruption reports is a function of the number of reports that are filed and the costs of filing each report. Previously, the Commission has estimated that the filing of each three-stage outage report (*i.e.*, notification, initial report, and final report) requires two hours of staff time, compensated at $80 per hour, amounting to a $160 total cost for the provider. We believe that this estimate remains valid. Moreover, we estimate that adoption of the proposed rules for covered broadband providers would result in the filing of 1,083 reports per year, based on the likely correlation of broadband Internet access service outages with interconnected VoIP outages, in which there were 750 reports in 2015, and of broadband backbone outages with interoffice blocking outages, in which there were 330 reports in 2015. In other words, based on 2015 figures, we estimate that there would be approximately 750 reportable VoIP outages, added to the 330 reportable broadband outages independent of VoIP, results in 1,083 total reports. Accordingly, we estimate that adoption of the rules proposed in this FNPRM would create $173,280 in reporting costs; calculated by adding the number of VoIP and broadband outages in 2015, and multiplying by the expected cost of $160. We seek comment on this cost estimate.

c. Benefits of Proposed Network Outage Reporting

66. On balance, we believe that the proposals of this FNPRM would ultimately produce substantial benefits for the public. As noted above, the nation is increasingly reliant on broadband communications, and disasters, pandemics, and cyber attacks can lead to sudden disruptions of normal broadband traffic flows. Adopted prior to widespread adoption of broadband, the current part 4 outage reporting rules have played a significant role in the Commission's successful efforts to promote reliable and resilient communications networks. The Commission's receipt of data on broadband service (and expanded interconnected VoIP service) disruptions would enable it to adapt this established practice to a world in which IP-based networks are increasingly relied on for critical communications—including 911 service—as well as for financial transactions, health care delivery and management, and the operation of our nation's critical infrastructure.

67. Given the large and rising volume of communications that occur over broadband networks—and the overall economic value these communications represent—even minor increases in network reliability that result from outage reporting could have a significant public benefit. We believe that the benefits of the proposed reporting requirements will be substantial, as increases in network reliability can improve not only business continuity, but also the availability of emergency response,

thereby saving many lives. We therefore expect that, even if only a few lives are saved each year, the annual benefit from these proposed changes will far exceed the costs they impose on affected parties. We have noted throughout this FNPRM that the harm from not requiring broadband outage reporting could be substantial, and we believe that the benefits of the proposals would far exceed the costs. We seek comment on other harms that consumers or providers face currently or may face in the future as a result of loss of connectivity that could have been avoided if industry outage trends had been spotted earlier and addressed more constructively through NORS reporting. We seek comment on the total expected benefit of the proposed reporting requirements for broadband providers.

B. Interconnected VoIP Outage Reporting

68. In 2012, the Commission adopted limited outage reporting requirements for interconnected VoIP providers. The rules apply to both facilities-based and non-facilities-based interconnected VoIP services. Since extending outage reporting to interconnected VoIP, however, the Commission has not received consistent, timely, or sufficiently detailed reporting needed to promote greater interconnected VoIP service. This causes us now to raise questions about how to stimulate granular and consistent reporting for interconnected VoIP providers that aids the Commission in its efforts to ensure reliable, resilient, and secure interconnected VoIP service for America's consumers and businesses. Accordingly, we propose to modify the existing reporting process for interconnected VoIP to hew closer to the process for other providers. Lastly, we seek comment on whether there are any differences between interconnected VoIP services and other foregoing broadband services that weigh in favor of establishing different outage reporting rules for the two kinds of service providers.

1. Interconnected VoIP Outage Reporting Process

69. We propose to amend the reporting process for outages involving interconnected VoIP service to harmonize it with the "legacy" services and the proposed reporting process for broadband outages. However, because the current outage reporting rules for interconnected VoIP allow a 24-hour notification period and do not require interim reports, the Commission rarely learns of interconnected VoIP network outages in near real time, and often has to wait almost a month until the final report is submitted to get outage event root causes or other useful information.

70. Under the part 4 rules for legacy services, specifically 47 CFR 4.11, initial reports provide the Commission with timely access to more detailed information about an outage than was available to the provider at the time of the notification, in many cases confirming the existence of an outage that was only tentatively reported at the notification stage. However, such initial reports are not required of interconnected VoIP providers, and what's more, the 24-hour notification period has resulted in notifications being filed well after an outage has commenced, in some cases after the outage has concluded. In one recent instance, an interconnected VoIP outage that affected close to 1 million users across nearly a dozen states was first reported to the Commission twenty-three hours after its discovery. Consequently, for certain interconnected VoIP outages, the Commission must wait until a final report is filed—up to thirty days after the notification is filed—to receive any information about the underlying cause of an interconnected VoIP outage, or even to verify that a reportable outage in fact occurred. Providers also do not report information on the duration of the outage in the notification, and are currently only required to give this information 30 days later in the final report. Thus, we believe that the abridged reporting adopted for interconnected VoIP "hard down" outages creates significant gaps in the Commission's visibility into such outages and hinders its ability to take appropriate remedial actions.

71. We recognize that a lack of visibility into underlying broadband networks may pose challenges to interconnected VoIP providers, in providing information as the cause of the outage. As with BIAS and dedicated services providers, we seek comment on whether interconnected VoIP providers can, do, or should take steps contractually or otherwise to address these problems. At a minimum, we believe that providers should make reasonable efforts to learn about the causes of any reportable outages and thus to be in a position to include such information in their reports, irrespective of whether the affected facility is within their control. Moreover, because interconnected VoIP services often rely on networks that provide BIAS services, we believe that the proposed rules for broadband outage reporting discussed *supra* largely eliminate this concern and essentially place interconnected VoIP providers on the equal footing with other part 4 entities. Accordingly, we propose to replace the existing reporting structure for interconnected VoIP with the three-report structure used by all other reporting entities, as originally proposed in the *2011 Part 4 Notice.* Specifically, we propose to tighten the timeframe for interconnected VoIP providers to notify the Commission of an outage from 24 hours to 120 minutes; to require providers to file an initial report with additional information within 72 hours; and to file a final report within 30 days of the outage that includes all pertinent information about the outage, including any information available that was not contained in or changed from the initial report. All reports would be filed electronically with the Commission.

72. Furthermore, although not independent triggers for part 4 reporting, we expect providers to include information in their reports concerning (1) the failure of facilities that might be considered critical network elements (we consider a network element "critical" if the failure of that network element would result in the loss of any user functionality that an interconnected VoIP provider provides to its consumers, for example, Call Agents, Session Border Controllers, Signaling Gateways, Call Session Control Functions (CSCF), and Home Subscriber Server (HSS)), and (2) unintended changes to software or firmware or unintended modifications to a database to the extent relevant to a given outage or service disruption that is otherwise reportable. As described fully in the broadband reporting process above, reports should include specific details.

73. At this time we believe adopting a three-part reporting structure for interconnected VoIP outages is appropriate, however, as raised for broadband outage reporting above, we seek comment on other steps the Commission can take to make providers' reporting obligations consistent across services or otherwise streamline the process. We seek comment on whether there are ways of automating the outage reporting process for interconnected VoIP service providers beyond what has been possible or has been attempted in the context of legacy communications services. How could such automated reporting be accomplished? What are the advantages of such a reporting mechanism? What are the disadvantages? What cost savings would result from any such automation? Alternatively, we seek comment on maintaining the two-step process for interconnected VoIP outages.

2. Proposed Interconnected VoIP Outage Metrics

a. Outages Defined by Performance Degradation

(i) Metrics for Performance Degradation

74. We also propose to require interconnected VoIP providers to report outages, per 47 CFR 4.5(a), that reflect losses of "generally useful availability and connectivity" as defined by specific metrics. Similar to our proposal for covered broadband providers, we propose to base performance degradation on packet loss and latency for any network facility used to provide interconnected VoIP service. We also seek comment on whether it would be appropriate to adopt a throughput-based outage metric for interconnected VoIP outage reporting in addition to the throughput metric discussed above with respect to broadband providers, *i.e.*, providers would be required to report an outage of 1Gbps or more of interconnected VoIP service for 30 minutes or more. Are the proposed metrics—relating to packet loss, latency and throughput—well-suited for interconnected VoIP? Would this approach provide better methods for detecting and reporting outages on interconnected VoIP networks?

75. We recognize that adopting performance degradation metrics may result in an increased burden on VoIP providers than their legacy voice counterparts. We ask whether interconnected VoIP's unique technology justifies a departure from a pure "hard down" reporting metric currently required for interconnected VoIP providers and that of legacy counterparts, to the adoption of significant performance degradation reporting metrics? Are there throughput-related issues associated with interconnected VoIP calling? For example, where the service might be up and running, yet be degraded to a point that emergency call information exchange is negatively impacted? Or, given interconnected VoIP's dependence on broadband connectivity, are there vulnerabilities associated with that technology that introduce threat scenarios (*i.e.*, attack vectors) that justify the added reporting burden? Are there other considerations we should take into account on the question of adding a performance degradation element to interconnected VoIP providers' obligations under part 4?

76. As with our current "hard down" outage reporting for interconnected VoIP, we propose to apply any new rules to both facilities-based and non-facilities-based interconnected VoIP. Do interconnected VoIP providers have differing standards for network performance? Are non-facilities-based interconnected VoIP providers able to measure and/or access packet loss, latency, and/or throughput measurements? If not, why? How are non-facilities-based interconnected VoIP providers able to determine the network performance requirements for their service? Should the Commission instead adopt a single metric beyond which voice service is so degraded that it is no longer functional? If so, what is that metric and how and where is it measured? Would multiple metrics be required? If so, what would those metrics and how and where would they be measured? We seek comment on these proposals. We also seek comment on how the proposed metrics apply to mobile VoIP. Will application of these metrics to mobile VoIP result in too many instances where, although the threshold is passed, there is no major problem with the network? Are there other metrics that are better suited for mobile VoIP service? If so, why? Should the monitoring period and metrics adopted for interconnected VoIP outage reporting be consistent with the monitoring period and metrics adopted for broadband outage reporting, or are there differences between the two types of services that warrant different monitoring period and metrics?

77. Alternatively, as with our proposed broadband outage reporting, we could adopt more specific, absolute thresholds for performance degradation, like those proposed in the *2011 Part 4 Notice* for broadband providers, *e.g.*, service degradation occurs whenever there is: (i) An average packet loss of 0.5 percent or greater; or (ii) average round-trip latency of 100 ms or greater, with all measurements taken in each of at least six consecutive five-minute intervals from source to destination host. If absolute thresholds are preferable, are these reporting thresholds for packet loss and latency set at appropriate levels for interconnected VoIP service? Should the Commission adjust any of these thresholds and, if so, what is an appropriate threshold? Should the Commission modify the requirement to take performance measurements in six consecutive five-minute intervals? If so, how?

(ii) Measurement of Performance Degradation

78. Moreover, we seek comment on the end-points from which interconnected VoIP providers will need to measure these metrics. We recognize that it is important to consider the methods used to measure the proposed metrics and account for the location of the network elements within the interconnected VoIP networks. This will help to ensure accurate and reliable measurements of the proposed metrics to indicate network performance. We propose that these metrics be measured from "source to the destination host." The term "source" would refer to the network elements responsible for the setting up the VoIP call (*e.g.*, call manager, user agent, client) while the term "destination" would refer to the endpoints routing and executing the call (*e.g.*, VoIP router, softphone). We seek comment on the use of the terms "source" and "destination host" and ask if these terms appropriately cover the various types of network facilities (*e.g.*, CSCF, HSS, AAA servers, SIP servers, Session Border Controllers, Media Gateway Controllers) used by interconnected VoIP providers to connect to their customers and/or exchange network traffic with other interconnected VoIP networks? Are there other terms that would better convey the network elements from which interconnected VoIP providers will need to measure the proposed reporting metrics?

b. Benefits and Costs of Proposed Reporting

79. We seek comment on whether the benefits of this additional reporting would outweigh the incremental burden on providers. We estimate that the three-part reporting of an outage—including the filing of a notification, initial report, and final report—imposes only a $300 cost burden on the provider. In 2015, the Commission reviewed 750 interconnected VoIP outages. We expect to review an additional 750 filings for the same number of outages received in 2015, and an additional 75 filings as a result of our performance degradation proposal discussed above. Therefore, 750 plus 75 initial reports multiplied by 0.75 hours it takes to complete an initial report, multiplied by the cost of $80 employee hourly rate, results in $49,500 added cost. We therefore do not believe that expanding the reporting process from two reporting stages to three would significantly increase burdens for providers. We seek comment on this tentative conclusion. To the extent that commenters disagree, we seek comment on alternative, least costly methods. Is there similar or comparable data that providers already collect, or could collect at minimal expense given current data collection practices, that would be more cost-effective to report than the data they would report under the proposed rules? If so, what data, and

would it provide the Commission with adequate visibility into events that cause a loss of generally-useful availability and connectivity for significant numbers of interconnected VoIP users? What would the cost be of this comparable data?

80. We believe that the benefits of the proposed rules would exceed the costs. Absent the rules proposed in this FNPRM, the Commission lacks sufficient visibility into the reliability and security of interconnected VoIP networks. We believe that relevant data is already routinely collected by interconnected VoIP providers (in real time), so the cost of compliance would be only the cost of filing additional reports where necessary. Moreover, we believe that many of the proposed outage reporting triggers for interconnected VoIP, including those based on performance degradation, are likely to be covered by outages to the underlying broadband networks. Therefore, we do not believe the number of additional reports filed annually pursuant to the proposed rules for interconnected VoIP to be significant. We seek comment on this discussion.

C. Call Failures in Radio Access Networks

81. In the *2015 Part 4 Notice,* we sought comment on the reporting of call failures that result from congestion in wireless radio access networks (RAN), and in non-wireless (*i.e.,* wireline and VoIP) local access networks. We noted that the inability of the access network to support excess demand may not be considered reportable as a "failure or degradation" under our current rules, but the inability of consumers to make calls still undermines the reliability of networks. Nevertheless, we are concerned about the impact of such events on the reliability of 911 service. Because this appears to be predominantly an issue with wireless networks, we proposed to amend our part 4 rules to require reporting of systemic wireless call failures that results from overloading in the RAN.

82. Requiring reporting of overloading in the access network (wireless radio or non-wireless local access) should not be interpreted to mean that providers must engineer their networks to account for sporadic spikes in calls. Instead, the reports would provide the Commission with data to identify any trends in network overloading. This could include identifying, for example, a particular network equipment that may be more susceptible to failure in mass calling events. Moreover, analysis of this data allows the Commission to work with industry to address situations where the network consistently fails to address "bursty" call patterns similar to those generated after disaster and wide-scale emergencies. While we recognize the point made by several commenters that networks should not be engineered to be able to transmit every single call if everyone in an area attempted to use the network at once, we believe that it would be in the interest of the public for the Commission to receive information on those situations, so that we can determine if, when, and where, blocking is consistently happening.

83. Verizon argues that such reporting that would be collecting information "for the sake of it," but that point ignores the premise behind our outage reporting rules. Although situational awareness is one goal of outage reporting, another key objective is to provide data to the Commission so that it can detect adverse outage trends and facilitate industry-wide network improvements. Moreover, even though we continue to believe that outage reporting encourages providers to fix problems in their networks, we note that many outage reports do not always result in permanent fixes to the network, as the outage may be a "one-off" event. However, as Public Knowledge observes, we will not know that such events are indeed "one-off," if the Commission is not aware of them in the first place.

84. Commenters also note that mass calling events are often unpredictable and typically short-lived, so they question the value of reporting on such events. However, because a mass calling event can be the consequence of a widespread disaster, we see significant value in collecting information on such events, as these are the incidents where reliable, resilient communications are most needed. Indeed, understanding failure patterns in moments of network saturation can help identify best practices for network management, as well as help certain communities realize a need for greater detail in emergency management plans. We recognize that reporting on mass calling events will not prevent them from occurring in the future, but we believe there is substantial value in analyzing such events in hindsight, as individual providers are unlikely to be able to see how such an event fits into broader industry practices and performance levels. With such data, the Commission would be in a better position to work with providers to address industry-wide problems and share industry-wide mitigation solutions.

85. With respect to wireless RANs, we propose to consider a cell site to be "out" whenever a cell tower operates at full capacity (*i.e.,* is unable to process any additional calls) for 75 percent of the time during a period of at least 30 minutes. If the number of potentially-affected wireless user-minutes exceeds 900,000 for the cell sites considered "out," the outage would be reportable. Similarly, for non-wireless local access networks, we propose to amend our outage reporting rules to consider a loop carrier system or remote switch to be "out" whenever a remote terminal or the group of channels connecting a remote switch to a host operates at full capacity (*i.e.,* is unable to process any additional calls) for 75 percent of the time during a period of at least 30 minutes. If the number of user-minutes exceeds 900,000 for the loop carrier systems and remote switches that are considered "out," the outage would be reportable.

86. We seek comment on these proposals. Is 30 minutes an appropriate time period to measure call blockages? If not 30 minutes, what should be the appropriate interval of measurement for averaging purposes? Is 75 percent of that time at full capacity the right percentage of time? Alternatively, what percentage of calls blocked during that period constitutes congestion of the access network? To the extent that commenters oppose our proposal, we encourage them to propose an alternative, workable metric that addresses our concern. Is there a better way to measure persistent, widespread call failures in the RAN or local access network?

87. With respect to wireless RANs, we seek comment on how providers currently measure call failures. Would providers know of, and therefore have a way to measure, call attempts when a cell site is fully congested and not accepting call origination information? Also, given that wireless calls are constantly initiated and terminated within any given cell site, could some percentage below full capacity constitute congestive RAN failure for purposes of reporting? For congested cell sites, should the usual methods for calculating the total number of customers affected be used, or should some account be taken of the fact that more than the usual number are trying to use the towers during these periods?

88. In the *Notice,* we estimated that under our proposal for reporting of widespread call failures in wireless RANs, providers would need to file approximately 420 reports per year, thus increasing their annual reporting costs by $67,200. We based this estimate on the assumption that wireless networks and interoffice networks are engineered to achieve comparably low rates of call

failure and would have a comparable rate of calls blocked.

89. We seek further comment on the specific costs to implement some type of reporting on call failures in both the RAN and the local access network. With regard to the RAN, CCA disagrees with an assumption in the *Notice* that providers are already technically capable of tracking call failures at each cell site, asserting that some of its members "do not currently collect and preserve this information in an ongoing manner." We seek more specific information about the data that providers already have about call failures and the costs of adding equipment to track call failures at cell sites. To what extent do providers already track call failures in the RAN and the local access network? What other parameters do operators use to determine when new towers or equipment must be installed to meet increasing demand? Commenters should be specific as to the information that their networks can track. Commenters should be specific and realistic in their costs estimates as well.

90. Moreover, we ask if some type of delayed implementation or exemption for smaller and/or rural providers would be helpful, particularly given that we expect network overloading is less likely to be an issue in rural areas. If we were to delay implementation of this type of reporting for a certain subset of providers, what would be a reasonable amount of time? What definition of smaller and/or rural carrier would be most appropriate?

D. Geography-Based Wireless Outage Reporting

91. In the *2015 Part 4 Notice,* we sought comment on a separate and additional wireless outage reporting requirement based on the geographical scope of an outage, irrespective of the number of users potentially affected. Wireless outages that may not meet our 900,000 user-minute threshold but cover large geographic areas may be important because wireless service may be the only option in many areas, particularly as the percentage of calls to 911 from wireless devices continues to increase. It may be possible that large geographic areas are regularly losing service, but we are not aware of them (other than by press reports) because they do not meet the 900,000 user-minute threshold. Nonetheless, these outages are especially important to areas where service (wireless or otherwise) is minimal, and when an outage occurs, those in an emergency would have to travel far to make a 911 call.

93. We propose to amend the part 4 reporting requirements to include wireless outages significantly affecting rural areas. We seek comment on this proposal. Specifically, we propose to require a wireless provider serving a rural area to file outage reports whenever one-third or more of its macro cell sites serving that area are disabled such that communications services cannot be handled through those sites, or are substantially impaired due to the outage(s) or other disruptions affecting those sites. We seek comment on, alternatively, requiring such reporting upon the disabling of one-half of the macro cell sites in the rural area. In regard to the definition of "rural area," while the Communications Act does not include a statutory definition of what constitutes a rural area, the Commission has used a "baseline" definition of rural as a county with a population density of 100 persons or fewer per square mile. We propose to use this same definition for purposes of determining wireless outages affecting predominantly rural areas. We ask, however, whether other alternative definitions might be of better use in aiding our visibility into rural-specific outages. For example, should we focus on areas designated for the Universal Service Mobility Fund support? Are there other rural area designation tools or proxies that should be considered (*e.g.,* defining areas by rural exchange operating carrier designations—OCNs)? We seek comment on these questions and proposals.

94. Is there a geographic area designation other than "rural area," as defined above, that aligns better with the way wireless providers measure their own service? For example, is there a subset of any licensed service area (*e.g.,* Cellular Market Area) that wireless carriers could more easily use to identify outages in predominantly rural areas? Or, would the use of zip codes, such as when one hundred percent of a zip code is impacted be an appropriate measurement? Also, we seek comment on whether an outage of at least one-third, or one-half, of cell sites within the rural area would indicate an outage that would be of a nature that it substantially affects wireless coverage for a large geographic area.

95. We recognize that this issue may become less critical as wireless providers begin to comply with the new standardized method, adopted in the above Report and Order, for calculating the number of potentially affected users during a wireless outage. By using a national average to determine the potentially affected users per site, will adoption and implementation of this new formula for the number of potentially-affected users increase the reporting of outages in low population areas? We also seek comment on alternative measurements for outages in rural areas. For example, could we adopt a lower user-minute threshold for rural areas to increase the reporting of events affecting rural communities? For example, would a threshold of 300,000 user-minutes in rural areas increase our chances of receiving information on outages that affect rural communities? Conversely, for example, would clear geographic criteria, such as a county-based threshold, for wireless outage reporting simplify the M2M rules for automated outage reporting and eliminate the need for manual interpretations of thresholds?

96. In the *Notice,* we estimated that adoption of a geography-based outage reporting requirement would result in the filing of an additional 1,841 reports per year, thereby increasing reporting costs by $294,560 (*i.e.,* 1,841 reports × $160 staff costs per report). To reach this estimate, we subtracted the number of additional outage reports that would be generated by geography-based reporting from the number of reports that would be submitted for outages that meet the current 900,000 user-minute threshold. We estimated that geography-based reporting would generate additional reports in counties where a wireless provider has fifteen or fewer cell sites. The number of counties with fifteen or fewer cell sites represents 2.7 percent of the total number of cell sites nationwide, based on analysis of data collected from companies given to the Commission during activations from the Disaster Information Reporting System (DIRS) in 2012. Using as a guide counties with fifteen or fewer cell sites, we calculated that a disruption to communications would be reportable under a geographic coverage standard if one or two cell sites in the county are down. Based on historical NORS data, we then estimated that each cell site has a 22.6 percent chance of experiencing an outage within a given year, and using CTIA's estimate that 301,779 cell sites were in operation nationwide as of the end of 2012, we tentatively conclude that adoption of a geography-based reporting requirement would likely result in the filing of 1,841 additional reports per year, creating an estimate of $294,560 cost burden.

97. We seek further comment on the costs of implementing a new geography-based outage reporting requirement for wireless carriers. Sprint and Verizon argue that carriers would need to develop and deploy additional automation tools and monitoring

mechanisms. We estimate that, based on our proposal here, our estimate of 1,841 additional reports per year from the *Notice* will be the same. We seek further comment on a way in which we could capture outages affecting large geographic areas without being overly burdensome for providers. If, for example, we were to adopt an outage reporting requirement when 33 percent of cell sites become disabled within a county, would such a calculation require additional tools or monitoring mechanisms? We assume carriers would already know when (and why) their cell sites become disabled, and would know the number of cell sites per county. Therefore, we believe it would be a relatively easy and inexpensive calculation for providers to determine if a certain threshold of cell sites in a county have become disabled. Is one-third (33 percent) the appropriate threshold?

98. NTCA comments that the burden would be greater on smaller carriers, where the failure of one tower may trigger a reporting obligation. While we could consider some type of exemption for smaller carriers, we believe smaller and rural carriers cover precisely the areas targeted by this proposal. Therefore, we do not propose to exempt any carriers. We seek comment on this approach.

E. Refining the Definition of "Critical Communications" at Airports

99. Commercial aviation increasingly depends on information systems that are not collocated with airport facilities, and that may carry critical information. We seek comment on requiring reporting of outages affecting critical aviation information facilities that are not airport-based, either as a function of their status as TSP Level 3 or 4 facilities (facilities are eligible for TSP Level 3 or 4 prioritization if they (3) support public health, safety, and maintenance of law and order activities or (4) maintains the public welfare and the national economic system), or upon some other basis. In particular, we seek comment on whether it is correct to assume that some information systems critical to safe commercial aviation are not located within an airport's facility. If the assumption is accurate, we invite discussion of the architecture of such external systems, including the safeguards currently established for those systems. Were the Commission to explore outage reporting requirements for these systems and facilities, what reporting criteria should it establish? For outage reporting purposes, should the Commission distinguish between facilities enrolled in the TSP program and those facilities that are not? If so, on what basis should the different treatment be premised? What, if any, additional costs might be associated with expanding the reporting obligation to such facilities, whether or not enrolled in TSP?

F. Legal Authority

1. 911 and Emergency Communications

101. Following the evolution in the country's commercial communications networks, the nation's emergency communications systems are in the process of a critical transition from legacy systems using time-division multiplex (TDM)-based technologies to Next Generation 911 (NG911) systems that utilize IP-based technologies.

102. As a result of this transition, the nation's 911 system will increasingly include the BIAS and dedicated services, which will support a new generation of 911 call services that may be vulnerable to a similarly new generation of disruptions that may not have existed on legacy 911 networks. Indeed, as NG911 services are increasingly provisioned through broadband network elements, disruptions to broadband could impact the provision and reliability of local 911 voice and other shared services essential to emergency response. Accordingly, we believe that monitoring the resiliency of broadband networks supporting that communication is vital to ensure the reliable availability and functionality of 911 services.

103. Regarding our proposal to update the outage reporting rules for interconnected VoIP service providers, 47 U.S.C. 615a–1 instructs the Commission to "take into account any technical, network security, or information privacy requirements that are specific to IP-enabled voice services" and to update regulations "as necessitated by changes in the market or technology, to ensure the ability of an IP-enabled voice service provider to comply with its obligations." The proposed reporting process seeks to modernize the outage reporting system in light of technology advances and greater consumer adoption of interconnected VoIP service, considering the potential for degradations of service to impact 911 call completion. We seek comment on how Section 615a–1 provides authority to adopt such proposals with respect to interconnected VoIP.

104. We also believe that our proposals to extend outage reporting to the classes of broadband providers and services described in this *FNPRM* are authorized by or reasonably ancillary to our statutorily mandated responsibility under Section 615a–1 to ensure that "IP-enabled voice service provider[s] provide 9–1–1 service and enhanced 9–1–1 service." As noted above, broadband services are now and will continue to be key for delivery of 911 call information (including not only voice but also data and video) from the end-user to a PSAP. Therefore, to ensure broadband-enabled voice service providers comply with their 911 obligations, we seek comment on how our proposals better equip the Commission to meet its Section 615a–1 mandates. Moreover, in light of our obligation to identify capabilities necessary to support 911 and E911 service for interconnected VoIP, 47 U.S.C. 615a–1(6)(c), how would our proposals here enable us to determine if there are capabilities currently not captured by our rules? We seek comment on whether networks, facilities, databases or other components to the extent these are elements that support a "seamless transmission, delivery, and completion of 911 and E–911 calls and associated E–911 information" have changed sufficiently to warrant further consideration, or because "critical components of the 911 infrastructure may reside with an incumbent carrier, a PSAP, or some other entity." How should the Commission analyze these considerations in our Section 615a–1 analysis? In addition, we seek comment as to whether these proposals are authorized by or reasonably ancillary to our statutory mandates to develop best practices that promote consistency and appropriate procedures for defining network diversity requirements for IP-enabled 911 and E911 call delivery.

105. Additionally, under the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), the Commission may "promulgate regulations to implement the recommendations proposed by the [Emergency Access Advisory Committee (EAAC)], as well as any other regulations, technical standards, protocols, and procedures as are necessary to achieve reliable, interoperable communication that ensures access by individuals with disabilities to an Internet protocol-enabled emergency network, where achievable and technically feasible." The CVAA has served as the basis for Commission actions with respect to text-to-911 and 911 relay services, and we now seek comment on the application of the CVAA to our proposed disruption reporting rules for broadband.

106. In this vein, the EAAC has recommended that the Commission "issue regulations as necessary to require that target entities, in the development and deployment of NG9–1–1 systems, take appropriate steps to support features, functions and capabilities to enable individuals with disabilities to make multimedia NG9–1–1 emergency calls." The EAAC enumerated a list of goals for the Commission related to 911 accessibility, including enabling consumers to call 911 using different forms of data, text, video, voice, and/or captioned telephony individually or any combination thereof; ensuring direct access to 911 using IP-based text communications (including real-time text, IM, and email); and facilitating the use of video multimedia calls into a PSAP. The EAAC also recommended that users have the option to call 911 via voice or text service, as well as video and any other emerging technology; that is, callers should be able to access 911 using both old and new communications services—something that a single broadband network can support. We note that these technologies are commonly supported by broadband networks, and to ensure access to 911 for individuals with disabilities, the Commission must be able to assess how those technologies are performing. The EAAC also made clear that its recommendations should evolve with the technology. Perhaps most importantly, the EAAC recommended that the Commission "adopt requirements that ensure that the quality of video, text and voice communications is sufficient to provide usability and accessibility to individuals with disabilities based on industry standards for the environment."

107. Given that video, text, and voice communications to 911 already traverse broadband networks and will continue to do so as the deployment of Real-Time Text and other NG911 multimedia applications grows, we believe that the CVAA's mandate for ensuring equal access to 911 provides an additional legal basis for the broadband reporting rules proposed herein. We seek comment on this tentative conclusion. Is disruption reporting the optimal mechanism for the Commission to the quality of video, text and voice communications is sufficient to provide usability and accessibility to individuals with disabilities? Are there alternative measures the Commission could take to ensure broadband network availability for non-traditional 911 calls (*i.e.,* 911 text messages or relay calls)? We believe the proposed reporting requirements are an "achievable and technically feasible" way to ensure access to 911 for the deaf and hard of hearing, as required under the CVAA, and we seek comment on this approach.

2. Title II

108. The Commission has classified BIAS and dedicated services as telecommunications services under Title II of the Act. As such, we tentatively conclude that the Commission has ample authority under Title II to support the outage reporting requirements proposed in this *FNPRM.* We seek comment on this tentative conclusion, and on the relevance of Sections 201, 202, 214, 218, and any other provisions of Title II for supporting the outage reporting requirements proposed here for BIAS and dedicated services.

As we observed in the *2015 Open Internet Order,* [S]ection 201 imposes a duty "on common carriers to furnish communications services subject to Title II 'upon reasonable request,' " and to ensure that their practices are "just and reasonable." We also noted that the general conduct standard "represents our interpretation of [S]ections 201 and 202 in the broadband Internet access context." We seek comment on the interplay between the *2015 Open Internet Order* and the Commission's authority under [S]ection 201 to "prescribe rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter", as such authority relates to BIAS. We also seek comment generally on other provisions of Title II and legal theories under those provisions to support outage reporting in the dedicated services and BIAS contexts.

3. Title III

109. With respect to the rules proposed herein for wireless voice and broadband providers, we believe the Commission has further legal authority to support the rules proposed herein under Title III of the Communications Act. The Supreme Court has long recognized that Title III grants the Commission "expansive powers" and a "comprehensive mandate" to regulate the use of spectrum in the public interest, *Nat'l Broad. Co.* v. *United States,* 319 U.S. 190, 219 (1943) (recognizing the FCC's "expansive powers" and "comprehensive mandate").

110. We believe that 47 U.S.C. 303(b) and (r), and 316 provide the Commission with authority to apply outage reporting requirements to mobile BIAS and dedicated services providers and to CMRS providers in instances of call failures in the radio access network. We seek comment on this view.

111. For example, Section 303(b) authorizes the Commission to "[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class." Addressing the scope of this provision in *Cellco Partnership* v. *FCC,* 700 F.3d 534 (D.C. Cir. 2012), the D.C. Circuit recognized that Section 303(b) authorizes the Commission to "lay[ ] down a rule about 'the nature of the service to be rendered' by entities licensed" by the Commission. The court further explained in *Cellco* that, while a provider may choose not to offer a wireless service, Section 303(b) authorizes the Commission to "define[ ] the form" that the "service must take for those who seek a license to offer it."

112. We also believe 47 U.S.C. 316 authorizes the Commission to impose new conditions on existing licenses if we think such action "will promote the public interest, convenience, and necessity." The D.C. Circuit in *Celtronix Telemetry, Inc.* v. *FCC,* 272 F.3d 585 (D.C. Cir. 2001), recognized as "undisputed that the Commission always retain[s] the power to alter the term of existing licenses by rulemaking." Accordingly, we believe that the outage reporting requirements proposed here for mobile service providers of BIAS or dedicated services, as conditions imposed on existing licenses, fall within the Commission's Section 316 authority, and we seek comment on this view.

4. Section 706 of the Telecommunications Act

113. It is the established policy of the United States to "promote the continued development of the Internet and other interactive computer services and other interactive media . . . [and] to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools who use the Internet and other interactive computer services, " 47 U.S.C. 230(b). Furthering this policy, in 1996 Congress adopted Section 706 of the Telecommunications Act of 1996, which instructs the Commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans," and further provides if the Commission finds advanced telecommunications capability is not being deployed on a reasonable and timely basis, it must "take immediate action to accelerate deployment of such capability." Advanced telecommunications capability, as

defined in the statute, 47 U.S.C. 1302(d)(1), includes a subset of broadband Internet access. Thus, under Section 706(b), the Commission conducts an annual inquiry as to whether advanced telecommunications capability is being deployed to all Americans on a reasonable and timely basis.

114. We seek comment on the contours of Section 706 as the basis for broadband-related outage reporting under part 4. We believe broadband network reliability, resiliency, and security are germane to the Commission's effort to achieve Section 706's policy objectives. Mandatory outage reporting could provide the Commission with a dependable stream of objective data to further inform its annual inquiry under Section 706. We seek comment on the value of the proposed broadband outage reporting to our annual Section 706 inquiry, and on our more general view that such disruption and outage data may aid the Commission's efforts to ensure the deployment of advanced telecommunications capabilities to all Americans.

115. Further, the *2016 Broadband Progress Report* found that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion, requiring the Commission to take immediate action to accelerate broadband deployment by removing barriers to infrastructure investment and promoting competition. We seek comment on whether broadband outage reporting would aid the Commission in its efforts to identify where infrastructure investment and effective competition may be lacking and thus enable the Commission to take steps to remove any barriers to infrastructure investment that may prevail or otherwise to promote competition in affected areas. For instance, we observed in the *2016 Broadband Progress Report* that there are indications of a "correlation between non-adoption of broadband and security and privacy concerns." We also have stated that "privacy and network security are among the factors that can affect the quality and reliability of broadband services," and that "[c]ommunications security, integrity, and reliability must be maintained as providers transition to IP-supported networks." Does the proposed disruption reporting facilitate the 706(b) mandate to take immediate action to accelerate broadband deployment by providing valuable information on broadband infrastructure and service vulnerabilities, risks and disruptions that dampen consumer adoption and, thus, dis-incent broadband investment and deployment? Would the proposed reporting guide us to remove barriers to infrastructure investment and promote competition? Would broadband reporting promote Section 706's goals by enabling us to view sustained availability over time, providing a comprehensive view of performance-related metrics data? Of long-term advanced capability deployment? Could the Commission use the proposed outage reporting to spot areas of decreased investment or barriers to competition that we might need to stimulate or remove? We seek comment on whether the reliability of broadband service and its underlying network infrastructure can advance Section 706 availability goals as well as bring a real-time measure of the services that are available in a given area. For example, Form 477 supports Section 706 goals through non-outage data submitted by providers on a semiannual basis. Although those collections facilitate Section 706 availability driven considerations, we ask whether more granular data submitted in Part 4's time intervals may be of additional value to the Commission in the execution of Section 706's mandates. We think that these insights can be added to our Broadband Progress Report analyses without compromising the objectives now achieved through Part 4's confidentiality treatment (as further discussed below), and we seek comment on this view.

5. Universal Service Fund Mandates Under Section 254

116. In addition, we believe that the Commission's universal service funding mandates, underlying principles and goals, as set forth in Section 254 of the Act, authorize us to require broadband disruption and outage reporting, as proposed, where the data from such reports could promote, or provide assurance (*e.g.,* of "maximum value") to, the Commission's universal service funding efforts under Section 254. Sections 254 and 1 operate dynamically to ensure an appropriately broad scope of Commission authority to promote and safeguard universal service, thus, Section 1, as a policy statement, "illuminates" Section 254 which, in turn, "builds upon" Section 1. *Comcast,* 600 F.3d at 654. We seek comment on this observation and analysis.

117. Certain broadband providers receive significant federal universal service high-cost broadband funding support through the USF's Connect America Fund (CAF) program. To the extent that covered broadband providers receive (or have received) such funding, it is logical to require a certain level of assurance in behalf of the end users who fund it. Accordingly, we tentatively conclude that such part 4 reporting is an appropriate assurance expectation from CAF recipients, and we seek comment on this tentative conclusion.

118. On that basis, we now ask how part 4 disruption reporting concerning the broadband services funded through CAF support can best be used to assure these services and infrastructure? Specifically, should such assurance measurements be sought through our part 4 disruption reporting, or through some other mechanism? How might the collection and analysis of CAF recipient outage information help inform our Section 254-related considerations and assist us in achieving our universal service goals? Should the Commission adopt standards for network health to be made part of CAF funding considerations? If so, what mechanisms should be used by the Commission to effectuate that approach? Should the Commission, for example, condition CAF support on standards that take into account a provider's network health as revealed through outage reporting?

119. *Section 4(o).* As noted above, Section 4(o), 47 U.S.C. 154(o), states that "[f]or the purpose of obtaining maximum effectiveness from the use of radio and wire communications in connection with safety of life and property, the Commission shall investigate and study all phases of the problem and the best methods of obtaining the cooperation and coordination of these systems." We believe that in order for the Commission to fulfill this mandate in today's transitioning world and beyond, it must be able to obtain relevant data—including BIAS and dedicated services outage reporting—to investigate and study all aspects of broadband communications. We also believe Section 4(o) authorizes the Commission to gather broadband network outage data to help ensure NS/EP communications continue to obtain maximum effectiveness, *e.g.,* to receive appropriate levels of priority, be delivered over robust and resilient infrastructure, and function as required. Indeed, we believe that the ability to collect information on major disruptions to broadband communications supporting NS/EP priority services is essential to the Commission in fulfilling its national security/defense assurance role under the Act. We seek comment on these views.

II. Procedural Matters

120. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the proposals addressed in the *FNPRM.* Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments indicated on the first page of this *FNPRM.* In addition, the *FNPRM* and its IRFA (or summaries thereof) will be published in the **Federal Register**.

121. The proceeding this *FNPRM* initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

III. Initial Regulatory Flexibility Analysis

122. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rule Making (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in "Comment Period and Procedures" of this FNPRM. The Commission will send a copy of this FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

123. The FNPRM seeks additional comment on various proposals first issued in a *Notice of Proposed Rulemaking* in PS Docket 11–80, adopted in 2011 and in a *Notice of Proposed Rulemaking* in PS Docket No. 15–80, adopted in 2015.

124. The FNPRM seeks comment on:

- A proposal to require the filing of outage reports for broadband network disruptions (BIAS and dedicated service), including disruptions based on network performance degradation;
- proposed updates to the rules governing interconnected VoIP outage reporting to (i) include disruptions based on network performance degradation, and (ii) modify the VoIP outage reporting process to make it consistent with other services;
- reporting of call failures in wireless radio access networks and wireline local access networks, and on geography-based reporting of wireless outages in rural areas;
- refining the definition of "critical communications" at airports.

125. The Commission traditionally has addressed network resiliency and reliability issues by working with communications service providers to develop and promote best practices that address network vulnerabilities, and by measuring the effectiveness of best practices through outage reporting. Under the Commission's current rules, the outage reporting process has been effective in improving the reliability, resiliency and security of legacy networks and the services delivered over them. Commission staff collaborate with individual providers and industry organizations to review outage results and address areas of concern. These efforts have resulted in significant reductions in outages affecting legacy services, including interconnected VoIP. The aim of extending outage reporting to cover broadband providers is to achieve a similar result: Enhance the reliability, resiliency and security of their services utilizing an approach—tailored as appropriate to account for broadband's unique aspects—that has produced significant benefits with respect to legacy networks and services.

126. The legal bases for the rule changes proposed in this FNPRM are contained in sections 1, 4(i), 4(j), 4(o), 201(b), 214(d), 218, 222, 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, and 615c, 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 222, 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a–1, and 615c, 1302(a) and 1302(b).

A. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

127. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules adopted herein. The RFA generally defines the term "small entity" the same as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act, 5 U.S.C. 601(3). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA), Small Business Act, 15 U.S.C. 632.

1. Total Small Entities

128. Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA. In addition, a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field." Nationwide, as of 2007, there were approximately 1, 621,315 small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a

population of less than fifty thousand." Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,506 entities may qualify as "small governmental jurisdictions." Thus, we estimate that most governmental jurisdictions are small.

2. Interconnected VoIP and Broadband ISPs Services

129. The 2007 Economic Census places Internet Service Providers, the services of which might include Voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.*, cable and DSL ISPs), which are considered within the Wired Telecommunications Carriers category. Or, depending on whether the VoIP service is provided over client-supplied telecommunications connections (*e.g.*, dial-up ISPs), which are considered within the All Other Telecommunications category. To ensure that this IRFA describes the universe of small entities that our action might affect, we discuss several different types of entities that might be currently providing interconnected VoIP service, broadband Internet access service, or business data services. In the document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf*, we provide a thorough discussion of VoIP service provided over the provider's own telecommunications facilities; and VoIP service provided over client-supplied telecommunications connections, and to the extent applicable, whether each listed are considered "small businesses."

3. Wireline Providers

130. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services, providers of interexchange services, or operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry." In the document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf*, we provide a thorough discussion of Incumbent Local Exchange Services, Providers of Interexchange Services, or Operator Service Providers, and to the extent applicable, whether each of these listed are considered "small businesses."

4. Wireless Providers—Fixed and Mobile

131. To the extent the wireless services listed below are used by wireless firms for fixed and mobile broadband Internet access services, the *NPRM's* proposed rules may have an impact on those small businesses as set forth above and further below. Accordingly, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that claim to qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments and transfers or reportable eligibility events, unjust enrichment issues are implicated. In the document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf*, we provide a thorough discussion of Wireless Telecommunications Carriers (except Satellite); Wireless Communications Services (WCS); 1670–1675 MHz Services; Wireless Telephony; Broadband Personal Communications Service; Specialized Mobile Radio Licenses; Lower 700 MHz Band Licenses; Upper 700 MHz Band Licenses; 700 Mhz Guard Band Licensees; Air-Ground Radiotelephone Service; AWS Services (1710–1755 Mhz and 2110–2155 Mhz Bands (AWS–1); 1915–1920 Mhz, 1995–2000 Mhz, 2020–2025 Mhz and 2175–2180 Mhz Bands (AWS–2); 2155–2175 Mhz Band (AWS–3)); 3650–3700 MHz Band; Fixed Microwave Services; Local Multipoint Distribution Service; Broadband Radio Service and Educational Broadband Service; and to the extent applicable, whether each of these listed are considered "small businesses."

5. Satellite Service Providers

132. Two economic census categories address the satellite industry. The first category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. The category of Satellite Telecommunications category comprises firms "primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." The second category has a size standard of $32.5 million or less in annual receipts. The second category, *i.e.*, "All Other Telecommunications" "comprises establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry." In the document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf*, we provide a thorough discussion of Satellite Telecommunications firms, and All Other Telecommunications establishments; and to the extent applicable, whether each of these listed are considered "small businesses."

6. Cable Service Providers

133. Because Section 706 requires us to monitor the deployment of broadband regardless of technology or transmission media employed, we know that some broadband service providers do not provide voice telephony service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others. Wired Telecommunications Carriers comprise of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on

a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services; wired (cable) audio and video programming distribution; and wired broadband Internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry." For Cable Companies and Systems, the Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that all but ten cable operators nationwide are small under this size standard. In addition, under the Commission's rules, a "small system" is a cable system serving 15,000 or fewer subscribers. For Cable System Operators, the Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. In the document, *https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-63A1.pdf,* we provide a thorough discussion of Wired Telecommunications Carriers; Cable Companies and Systems; and Cable System Operators; and to the extent applicable, whether each of these listed are considered "small businesses."

B. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

134. The rules proposed in the FNPRM would require broadband Internet access providers and dedicated service providers as well as interconnected VoIP providers, to report outages or disruptions to communications according to specified metrics and thresholds, of at least 30 minutes. These providers as proposed, would need to specify when the outage is related unintended changes to or failures of software or firmware, unintended modifications to databases, or attributed to a critical network element. Reporting requirements would align the reporting process and timing with that of legacy reporting currently required in the part 4 rules.

135. Further, the rules proposed in the FNPRM would require interconnected VoIP service providers to submit Initial Reports, in addition to the Notifications and Final Reports currently required. These reporting requirements would align the reporting process and timing with that of legacy reporting currently required in the part 4 rules.

136. Moreover, the rules proposed in the FNPRM would require wireless and wireline providers to report outages that exceed proposed specified technical thresholds in the wireless radio access network and the wireline local access network respectively. The rules proposed in the FNPRM would also require wireless providers serving rural areas to file outage reports whenever one-third or more of its macro cell sites serving that area are disabled such that communications services cannot be handled through those sites, or are substantially impaired due to the outage(s) or other disruptions affecting those sites.

137. Under the Commission's current outage reporting rules, which apply only to legacy circuit-switched voice and/or paging communications over wireline, wireless, cable, and satellite communications services and interconnected VoIP, about 11,000 outage reports per year from all reporting sources combined are filed with the Commission. As a result of the rules proposed, we anticipate that fewer than 2,000 additional outage reports will be filed annually. Hence, we estimate that if the proposed rules are adopted, the total number of reports from all outage reporting sources filed, pursuant to the current and proposed rules, combined would be fewer than 13,000 annually. We note that, occasionally, the proposed outage reporting requirements could require the use of professional skills, including legal and engineering expertise. As a consequence, we believe that in the usual case, the only burden associated with the proposed reporting requirements contained in this FNPRM would be the time required to complete the initial and final reports. We anticipate that electronic filing, through the type of template that we are proposing (similar to the type that other service providers currently subject to outage reporting requirements are employing) should minimize the amount of time and effort that will be required to comply with the rules that we propose in this proceeding.

138. The FNPRM's proposal to require outage reporting would be useful in refining voluntary best practices and in developing new ones. In each case for the reporting thresholds proposed, we have chosen specific circumstances, applicable to the specific service that, in our view, warrant reporting as a significant outage, leading to FCC analysis and, possibly, the application of existing best practices or the development and refinement of best practices in the future. There may be additional thresholds that should also be included to improve the process of developing and improving best practices. We encourage interested parties to address these issues in the context of the applicable technologies and to develop their comments in the context of ways in which the proposed information collection would facilitate best practices development and increased communications security, reliability and resiliency throughout the United States and its Territories.

C. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

139. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

140. Over the past decade, the proportion of communications services provided over a broadband platform has increased dramatically, and the U.S. increasingly relies on broadband-based services not only for day-to-day consumer use but also for Homeland Defense and National Security. Over the past three years, the number of outages reported each year has remained relatively steady at about 11,000. We believe that the proposed outage reporting requirements are the minimum necessary to assure that we receive adequate information to perform our statutory responsibilities with respect to 911 services and ensure the reliability of communications and critical infrastructures. Also, we believe that the magnitude of the outages

needed to trigger the proposed reporting requirements (*e.g.,* outages of at least 30 minutes duration that potentially affect at least 900,000 user minutes) is set sufficiently high as to make it unlikely that small businesses would be impacted significantly by the proposed rules. We also believe the choice of performance-based, as opposed to design-based, degradation characteristics (*e.g.,* packet loss and round-trip latency) and the corresponding thresholds chosen to trigger the outage reporting will not unduly burden smaller entities because of their objective, readily ascertainable nature. We have also carefully considered the notion of a waiver for small entities from coverage of the proposed rules, but declined to propose one, as a waiver of this type would unduly frustrate the purpose of the proposed requirements and run counter to the objectives of the FNPRM. Further, we believe that the proposed requirement that outage reports be filed electronically would significantly reduce the burdens and costs currently associated with manual filing processes.

141. The proposed rules in the FNPRM are generally consistent with current industry practices, so the costs of compliance should be small. For a number of reasons, we believe that the costs of the reporting rules that we propose in the FNPRM are outweighed by the expected benefits (*i.e.,* ensuring communications reliability through outage reporting, trend analysis and network best practice development and implementation). We have excluded from the proposed requirements any type of competitively sensitive information, information that would compromise network security, and information that would undermine the efficacy of reasonable network management practices. We anticipate that the record will suggest alternative ways in which the Commission could increase the overall benefits for, and lessen the overall burdens on, small entities.

142. We ask parties to include comments on possible alternatives that could satisfy the aims of the proceeding in cost-effective ways that do not overly burden providers, and we also seek comment on appropriate legal authority(ies) for the proposals under consideration. Moreover, we also seek comments on the relative costs and benefits associated with the proposed rules. We ask commenters to address particularly the following concerns: What are the costs, burdens, and benefits associated with any proposed rule? Entities, especially small businesses and small entities, more generally, are encouraged to quantify the costs and benefits of the proposed reporting requirements. How could any proposed rule be tailored to impose the least cost and the least amount of burden on those affected? What potential regulatory approaches would maximize the potential benefits to society? To the extent feasible, what explicit performance objectives should the Commission specify? How can the Commission best identify alternatives to regulation, including fees, permits, or other non-regulatory approaches?

143. Further, comments are sought on all aspects of this proposal, including the proposed extension of such requirements, the definitions and proposed reporting thresholds, and the proposed reporting process that would follow essentially the same approach that currently applies to outage reporting on legacy networks and services. We ask that commenters address whether the proposed rules would satisfy the Commission's intended aims, described herein, and would promote the reliability, resiliency and security of interconnected VoIP, broadband Internet access, and dedicated services. We also ask for comments on our tentative conclusions that: Expanding part 4 outage reporting requirements currently applicable to interconnected VoIP service providers, and extending part 4 reporting to BIAS providers and dedicated service providers, (i) would allow the Commission to analyze outage trends related to those services; (ii) would provide an important tool for network operators to use in preventing future outages; and (iii) would help to enhance and ensure the resiliency and reliability of critical communications networks and services.

144. In sum, we welcome comments on: The proposed rules themselves; whether they would achieve their intended objectives; whether there are performance objectives not mentioned that we should address; whether better alternatives exist that would accomplish the proceeding's objectives; the legal premises for the actions contemplated; and the costs, burdens and benefits of our proposal.

D. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

145. None.

List of Subjects in 47 CFR Part 4

Airports, Communications common carriers, Communications equipment, Disruptions to communications, Network outages, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 4 as follows:

PART 4—DISRUPTIONS TO COMMUNICATIONS

■ 1. The authority citation for part 4 is revised to read as follows:

Authority: Sections 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a-1, and 615c of Pub. L. 73–416, 48 Stat. 1064, as amended, and section 706 of Pub. L. 104–104, 110 Stat. 56; 47 U.S.C. 151, 154(i)-(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j), 316, 332, 403, 615a-1, 615c, and 1302, unless otherwise noted.

■ 2. Section 4.3 is amended by redesignating paragraph (i) as paragraph (k) and adding new paragraphs (i) and (j) to read as follows:

§ 4.3 Communications providers covered by the requirements of this part.

* * * * *

(i) *Broadband Internet access service providers (BIAS)* are providers of broadband Internet access service, as defined in § 8.2 of this chapter.

(j) *Dedicated Service providers* are providers of service that transports data between two or more designated points, *e.g.,* between an end user's premises and a point-of-presence, between the central office of a local exchange carrier (LEC) and a point-of-presence, or between two end user premises, at a rate of at least 1.5 Mbps in both directions (upstream/downstream) with prescribed performance requirements that include bandwidth, latency, or error-rate guarantees or other parameters that define delivery under a tariff or in a service-level agreement.

* * * * *

■ 3. Section 4.7 is amended by revising the section heading and paragraph (e)(2), and adding paragraphs (g) through (i) to read as follows:

§ 4.7 Definitions of metrics used to determine reporting of outages and disruptions to communications.

* * * * *

(e) * * *

(2) The mathematical result of multiplying the duration of an outage, expressed in minutes, by the number of end-users potentially affected by the

outage, for all other forms of communications.

* * * * *

(g) *Packet loss* is defined as the loss of one or more packets of data traveling across a network, which after being transmitted from a source, fail(s) to reach the destination point designated in the transmitting message.

(h) *Latency* is defined as the average time delay for a packet to travel from a source to a destination.

(i) *Throughput* is the amount of information transferred within a system in a given amount of time.

■ 4. Section 4.9 is amended by revising the heading of paragraph (g), paragraphs (g)(1)(ii), (g)(2) and adding paragraph (i) to read as follows:

§ 4.9 Outage reporting requirements—threshold criteria.

* * * * *

(g) *Interconnected VoIP Service.* (1) * * *

(ii) Within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that:

(A) Potentially affects at least 900,000 user minutes of Interconnected VoIP service and results in complete loss of service;

(B) Potentially affects 22,500 Gbps user minutes; or

(C) Potentially affects any special offices and facilities (in accordance with paragraphs (a) through (d) of § 4.5).

(2) Not later than 72 hours after discovering the outage, the provider shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with the requirements of § 4.11.

* * * * *

(i) *BIAS or Dedicated Service providers.* (1) All BIAS providers and Dedicated Service providers, as defined in § 4.3 shall submit electronically a Notification to the Commission within 120 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that:

(A) Potentially affects at least 22,500 Gbps user minutes;

(B) Potentially affects any special offices and facilities (in accordance with paragraphs (a) through (d) of § 4.5); or

(C) Potentially affects a 911 special facility (as defined in (e) of § 4.5).

(2) Not later than 72 hours after discovering the outage, BIAS providers and Dedicated Service providers, as defined in § 4.3, shall submit electronically an Initial Communications Outage Report to the Commission. Not later than 30 days after discovering the outage, the broadband Internet access service provider shall submit electronically a Final Communications Outage Report to the Commission. The Notification and the Initial and Final reports shall comply with the requirements of § 4.11.

[FR Doc. 2016–16273 Filed 7–8–16; 11:15 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE TREASURY

48 CFR Parts 1032 and 1052

Department of the Treasury Acquisition Regulations; Incremental Funding of Fixed-Price, Time-and-Material or Labor-Hour Contracts During a Continuing Resolution

AGENCY: Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Department of Treasury Acquisition Regulation (DTAR) for the purposes of providing acquisition policy for incremental funding of Fixed-Price, Time-and-Material or Labor-Hour contracts during a continuing resolution.

DATES: *Comment due date:* September 12, 2016.

ADDRESSES: Treasury invites comments on the topics addressed in this proposed rule. Comments may be submitted to Treasury by any of the following methods: by submitting electronic comments through the federal government e-rulemaking portal, *www.regulations.gov,* by email to *thomas.olinn@treasury.gov;* or by sending paper comments to Department of the Treasury, Office of the Procurement Executive, Attn: Thomas O'Linn, 1722 I Street NW., Mezzanine—M12C, Washington, DC 20006.

In general, Treasury will post all comments to *www.regulations.gov* without change, including any business or personal information provided, such as names, addresses, email addresses, or telephone numbers. Treasury will also make such comments available for public inspection and copying in Treasury's Library, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622–0990. All comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Thomas O'Linn, Procurement Analyst, Office of the Procurement Executive, at (202) 622–2092.

SUPPLEMENTARY INFORMATION:

Background

The DTAR, which supplements the Federal Acquisition Regulation (FAR), is codified at 48 CFR Chapter 10.

The Anti-Deficiency Act, 31 U.S.C 1341 and the FAR section 32.702, state that no officer or employee of the government may create or authorize an obligation in excess of the funds available, or in advance of appropriations unless otherwise authorized by law. A continuing resolution (CR) provides funding for continuing projects or activities that were conducted in the prior fiscal year for which appropriations, funds, or other authority was previously made available.

Each CR is governed by its specific terms. However, amounts available under a CR are frequently insufficient to fully fund contract actions that may be required during its term. No existing contract clause permits partial funding of a contract action awarded during a CR. While other strategies are available to address the need to take contract actions during a CR, these strategies—for example short-term awards—are inefficient and may have other disadvantages.

This proposal would establish policies and procedures in order to facilitate successful, timely, and economical execution of Treasury contractual actions during a CR. Specifically, this proposed rule would set forth procedures for using incremental funding for fixed-price, time-and-material and labor-hour contracts during a period in which funds are provided to Treasury Departmental Offices or Bureaus under a CR. Heads of contracting activities may develop necessary supplemental internal procedures as well as guidance to advise potential offerors, offerors and contractors of these policies and procedures.

Regulatory Planning and Review

This rule is not a significant regulatory action as defined in section

3(f) of Executive Order 12866. Therefore a regulatory assessment is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. chapter 6) generally requires agencies to conduct an initial regulatory flexibility analysis and a final regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. It is hereby certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. The rule is intended to make changes to the DTAR that would allow for improvements in continuity when Treasury funding is operating under a CR and should not have significant economic impacts on small entities. Notwithstanding this certification, the Department welcomes comments on the potential impact on small entities.

List of Subjects in 48 CFR Parts 1032 and 1052

Government procurement.

Accordingly, the Department of the Treasury proposes to amend 48 CFR Chapter 10 as follows:

PART 1032—CONTRACT FINANCING

■ 1. The authority citation for part 1032 continues to read as follows:

Authority: 41 U.S.C. 1707.

■ 2. Add subpart 1032.7 to read as follows:

Subpart 1032.7—Contract Funding

Sec.

1032.770 Incremental funding during a Continuing Resolution.
1032.770–1 Scope of section.
1032.770–2 Definition.
1032.770–3 General.
1032.770–4 Policy.
1032.770–5 Limitations.
1032.770–6 Procedures.
1032.770–7 Clause.

Subpart 1032.7—Contract Funding

1032.770 Incremental funding during a Continuing Resolution.

1032.770–1 Scope of section.

This section provides policy and procedure for using incremental funding for fixed-price, time-and-material and labor-hour contracts during a period in which funds are provided to Treasury Departmental Offices or Bureaus, under a continuing resolution (CR). HCAs may develop necessary supplemental internal procedures as well as guidance to advise potential offerors, offerors and contractors of these policies and procedures. Additionally, Bureaus who receive non-appropriated funds may utilize and tailor these policies and procedures to fit their needs.

1032.770–2 Definition.

"Continuing Resolution" means an appropriation, in the form of a joint resolution, that provides budget authority for federal agencies, specific activities, or both to continue operation until the regular appropriations are enacted. Typically, a continuing resolution is used when legislative action on appropriations is not completed by the beginning of a fiscal year.

1032.770–3 General.

The Anti-Deficiency Act, 31 U.S.C 1341 and FAR 32.702, states that no officer or employee of the Government may create or authorize an obligation in excess of the funds available, or in advance of appropriations unless otherwise authorized by law. A CR provides funding for continuing projects or activities that were conducted in the prior fiscal year for which appropriations, funds, or other authority was previously made available. Each CR is governed by the specific terms in that specific CR (*e.g.* duration of the CR) and under certain CRs, the funding amounts available for award of contract actions are inadequate to fund the entire amounts needed for some contract actions.

1032.770–4 Policy.

(a) A fixed-price, time-and-materials or labor-hour contract or order for commercial or non-commercial supplies or severable or non-severable services may be incrementally funded when—

(1) Funds are provided to a Treasury Departmental Office or Bureau under a CR. This includes funds appropriated to a bureau, funds appropriated to another entity that will be directly obligated on a Treasury contract, and funds in a revolving fund or similar account that will be reimbursed by a customer agency funded by a CR;

(2) Sufficient funds are not being allocated from the responsible fiscal authority to fully fund the contract action that is otherwise authorized to be issued;

(3) There is no statutory restriction that would preclude the proposed use of funds;

(4) Funds are available and unexpired, as of the date the funds are obligated;

(5) Assurance is provided by the responsible financial authority that full funding is anticipated once an Appropriation Act is enacted; and

(6) The clause prescribed by 1032.770–7 is incorporated into the contract or order.

(b) Incremental funding may be limited to individual line item(s) or a particular order(s).

1032.770–5 Limitations.

(a) This policy does not apply to contract actions that are not covered by the CR.

(b) If this policy is applied to non-severable services or to supplies, the contracting officer shall take into consideration the business risk to the Government if funding does not become available to fully fund the contract. If the contracting officer determines the use of incremental funding for non-severable services or supplies is in the best interest of the Government the contracting officer shall ensure the contractor fully understands how the limitations of the Government's liabilities under the contract might impact its ability to perform within the prescribed contract schedule.

1032.770–6 Procedures.

(a) An incrementally funded fixed-price, time-and-materials or labor-hour contract shall be fully funded once funds are available.

(b) The contracting officer shall ensure that sufficient funds are allotted to the contract to cover the total amount payable to the contractor in the event of termination of convenience by the Government.

(c) Upon receipt of the contractor's notice under paragraph (c) of the clause at 1052.232–90, Limitation of Government's Obligation, the contracting officer shall promptly provide written notice to the contractor that the Government is—

(i) Obligating additional funds for continued performance and increasing the Government's limitation of obligation in a specified amount;

(ii) Obligating the full amount of funds needed;

(iii) Terminating for convenience, as applicable, the affected line items or contract; or

(iv) Considering whether to allot additional funds; and

(A) The contractor is entitled by the contract terms to stop work when the Government's limitation of obligation is reached; and

(B) Any costs expended beyond the Government's limitation of obligation are at the contractor's risk.

(d) Upon learning that the contract will receive no further funds by the date provided in the notice under paragraph (c) of the clause at 1052.232–70, Limitation of Government's Obligation, the contracting officer shall promptly give the contractor written notice of the Government's decision and terminate the affected line items or contract, as applicable, for the convenience of the Government.

1032.770–7 Clause.

The contracting officer shall insert the clause at 1052.232–70, Limitation of Government's Obligation, in

(a) Solicitations and resultant contracts when incremental funding of fixed-price, time-and-material or labor-hour contract via a CR is anticipated; or

(b) Contracts or orders when incremental funding of a fixed-price, time-and-material or labor-hour contract is authorized and the Treasury Departmental Office or Bureau is operating under a CR (see 1032.770–4); and

(c) The CO shall insert the information required in paragraph (a) and (c) of the clause.

PART 1052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 1032 continues to read as follows:

Authority: 41 U.S.C. 1707.

■ 4. Add 1052.232–70 to subpart 1052.2 to read as follows:

1052.232–70 Limitation of Government's Obligation.

As prescribed in 1032.770–7, insert the following clause. Contracting officers are authorized, in appropriate cases, to revise paragraph (a) of this clause to specify the work required under the contract, in lieu of using contract line item numbers as well as revise paragraph (c) of this paragraph to specify a different notification period and percentage. The 30-day period may be varied from 45, 60 to 90 days, and the 75 percent from 75 to 85 percent:

LIMITATION OF GOVERNMENT'S OBLIGATION (TBD 2016)

(a) Funding is not currently available to fully fund this contract due to the Government operating under a continuing resolution (CR). The item(s) listed in the table below are being incrementally funded as described below. The funding allotted to these item(s) is presently available for payment and allotted to this contract. This table will be updated by a modification to the contract when additional funds are made available, if any, to this contract.

Contract line item number (CLIN)	CLIN total price	Funds allotted to the CLIN	Funds required for complete funding of the CLIN
	$	$	$
	$	$	$
	$	$	$
	$	$	$
Totals	$	$	$

(b) For the incrementally funded item(s) identified in paragraph (a) of this clause, the Contractor agrees to perform up to the point at which the total amount payable by the government, including any invoice payments to which the contractor is entitled and reimbursement of authorized termination costs in the event of termination of those item(s) for the Government's convenience, does not exceed the total amount currently obligated to those item(s). The Contractor is not authorized to continue work on these item(s) beyond that point. The Government will not be obligated in any event to reimburse the contractor in excess of the amount allotted to the line items of the contract regardless of anything to the contrary in any other clause, including but not limited to the clause entitled "Termination for Convenience of the Government" or paragraph (1) entitled "Termination for the Government's Convenience" of the clause at FAR 52.212–4, "Commercial Terms and Conditions—Commercial Items."

(c) Notwithstanding paragraph (h) of this clause, the Contractor shall notify the Contracting Officer in writing at least thirty days prior to the date when, in the Contractor's best judgment, the work will reach the point at which the total amount payable by the Government, including any cost for termination for convenience, will approximate 85 percent of the total amount then allotted to the contract for performance of the item(s) identified in paragraph (a) of this clause. The notification shall state the estimated date when that point will be reached and an estimate of additional funding, if any, needed to continue performance. The notification shall also advise the Contracting Officer of the estimated amount of additional funds required for the timely performance of the item(s) funded pursuant to this contract. If after such notification additional funds are not allotted by the date identified in the Contractor's notification, or by an agreed upon substitute date, the Contracting Officer will terminate any item(s) for which additional funds have not been allotted, pursuant to the terms of this contract authorizing termination for the convenience of the Government. Failure to make the notification required by this paragraph, whether for reasons within or beyond the contractor's control, will not increase the maximum amount payable to the contractor under paragraphs (a) and (b) of this clause.

(d) The Government may at any time prior to termination allot additional funds for the performance of the item(s) identified in paragraph (a) of this clause.

(e) The termination provisions of paragraphs (a) through (h) of this clause do not limit the rights of the Government under the clause entitled "Default" or "Termination for Cause." The provisions of this clause are limited to the work and allotment of funds for the item(s) set forth in paragraph (a) of this clause. This clause no longer applies once the contract is fully funded.

(f) Nothing in this clause affects the right of the Government to terminate this contract pursuant to the Government's termination for convenience terms set forth in this contract.

(g) Nothing in this clause shall be construed as authorization of voluntary services whose acceptance is otherwise prohibited under 31 U.S.C. 1342.

(h) The parties contemplate that the Government will allot funds to this contract from time to time as the need arises and as funds become available. There is no fixed schedule for providing additional funds.

(End of clause)

Dated: June 23, 2016.

Iris B. Cooper,

Senior Procurement Executive, Office of the Procurement Executive.

[FR Doc. 2016–16346 Filed 7–11–16; 8:45 am]

BILLING CODE P

Notices

Federal Register

Vol. 81, No. 133

Tuesday, July 12, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0041]

General Conference Committee of the National Poultry Improvement Plan

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of renewal.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the charter of the General Conference Committee of the National Poultry Improvement Plan (Committee) for a 2-year period. The Secretary of Agriculture has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Dr. Denise L. Brinson, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The purpose of the General Conference Committee of the National Poultry Improvement Plan (Committee) is to maintain and ensure industry involvement in Federal administration of matters pertaining to poultry health.

The Committee Chairperson and the Vice Chairperson shall be elected by the Committee from among its members. There are seven members on the Committee. The poultry industry elects the members of the Committee. The members represent six geographic areas with one member-at-large.

Done in Washington, DC, this 6th day of July 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–16461 Filed 7–11–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0013]

Notice of Availability of Proposed Changes to the National Poultry Improvement Plan Program Standards

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that proposed changes to the National Poultry Improvement Plan Program Standards are available for review and comment.

DATES: We will consider all comments that we receive on or before August 11, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0013.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0013, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

The proposed standards and any comments we receive may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0013* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Denise Brinson, DVM, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094–5104; (770) 922–3496.

SUPPLEMENTARY INFORMATION: The National Poultry Improvement Plan (NPIP), also referred to below as "the Plan," is a cooperative Federal-State-Industry mechanism for controlling certain poultry diseases. The Plan consists of a variety of programs intended to prevent and control poultry diseases. Participation in all Plan programs is voluntary, but breeding flocks, hatcheries, and dealers must first qualify as "U.S. Pullorum-Typhoid Clean" as a condition for participating in the other Plan programs.

The Plan identifies States, flocks, hatcheries, dealers, and slaughter plants that meet certain disease control standards specified in the Plan's various programs. As a result, customers can buy poultry that has tested clean of certain diseases or that has been produced under disease-prevention conditions.

The regulations in 9 CFR parts 56, 145, 146, and 147 (referred to below as the regulations) contain the provisions of the Plan. The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) amends these provisions from time to time to incorporate new scientific information and technologies within the Plan.

In the past, APHIS has updated the regulations once every 2 years, following the Biennial Plan Conference of the NPIP General Conference Committee. The NPIP General Conference Committee advises the Secretary on poultry health and represents cooperating State agencies and poultry industry members. During its meetings and Biennial Conferences, the Committee discusses significant poultry health issues and makes recommendations to improve the NPIP.

However, while changes in diagnostic science, testing technology, and best practices for maintaining sanitation are continual, the rulemaking process can be lengthy. As a result, the regulations have, at times, become outdated. To remedy this problem, we determined that we needed a more flexible process for amending provisions of the Plan. On July 9, 2014, we published in the **Federal Register** (79 FR 38752–38768, Docket No. APHIS–2011–0101) a final rule[1] that, among other things, amended the regulations by removing tests and detailed testing procedures, as well as sanitation procedures, from part 147, and making these available in an NPIP Program Standards document.[2] The rule

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[1] To view the final rule and related documents, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0101.*

[2] This document may be viewed on the NPIP Web site at *http://www.poultryimprovement.org/*

Continued

also amended the regulations to provide for the Program Standards document to be updated through the issuance of a notice in the **Federal Register** followed by a period of public comment. The latter change was intended to enable us to make the NPIP program more effective by allowing us to update Plan provisions without the need for rulemaking.

The Committee recently voted to amend the Program Standards by creating provisions for compartmentalization of primary breeding poultry establishments and approval of compartment components such as farms, feedmills, hatcheries, and egg depots. The urgency of adding such provisions to the Program Standards was reinforced by the devastating highly pathogenic avian influenza (HPAI) outbreak of 2014–2015, which highlighted the enormous impact trade restrictions can have on distributing breeding stock to customers around the globe.

The regulations at 9 CFR 145.45, 145.74, and 145.84 provide the basis for compartmentalization of poultry primary breeding companies. Compartmentalization is a procedure that a country may implement to define and manage animal subpopulations of distinct health status and common biosecurity program within its territory, in accordance with the guidelines in the World Organization for Animal Health (OIE) Terrestrial Animal Health Code, for the purpose of disease control and international trade. Compartmentalization is distinct from regionalization, which involves recognition of geographical zones of a country that can be identified and characterized by their level of risk for different diseases, but the two are not mutually exclusive. When regionalization is not feasible, APHIS may seek to preserve trade with key countries in the face of outbreaks of HPAI and other diseases through compartmentalization. Compartmentalization may also enable continued interstate movement of breeding stock to domestic customers and operations if future low pathogenic avian influenza and/or HPAI outbreaks occur.

We are advising the public that we have prepared updates to the NPIP Program Standards document. The proposed updates would amend the Program Standards by adding provisions for compartmentalization of primary breeding poultry establishments and approval of compartment components such as farms, feedmills, hatcheries, and egg depots, as recommended by the General Conference Committee. Included in the proposed additions are requirements for applying for compartmentalization of facilities and for facility design and management, as well as an outline of the auditing system APHIS will use to evaluate compartments and their component operations.

After reviewing any comments we receive on the proposed updates, we will publish a second notice in the **Federal Register** announcing our decision regarding the proposed changes.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), we have determined that there are reporting and recordkeeping burdens associated with the compartmentalization provisions we are considering. We will publish a separate document in the **Federal Register**, announcing our determination of burden and soliciting comments on it.

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 6th day of July 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–16460 Filed 7–11–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of Land and Resource Management Plan for the Santa Fe National Forest; Counties of Los Alamos, Mora, Rio Arriba, Sandoval, San Miguel, Santa Fe, and Taos, New Mexico; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to revise the Santa Fe National Forest Land and Resource Management Plan and to prepare an associated Environmental Impact Statement (EIS); correction.

SUMMARY: The Forest Service is correcting the comment due date in a document that published in the **Federal Register** of June 30, 2016 (81 FR 4261), revising the Land and Resource Management Plan (hereafter referred to as the forest plan) for the Santa Fe National Forest.

FOR FURTHER INFORMATION CONTACT: Jennifer Cramer, Forest Planner, Santa Fe National Forest, 11 Forest Lane, Santa Fe, New Mexico 87508. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

Correction

In the **Federal Register** of June 30, 2016, in FR Doc. 2016–15525, on page 42641, in the first column, correct the "**DATES**" caption to read:

DATES: Comments concerning the Needs for Change and Proposed Action provided in this notice will be most useful in the development of the revised forest plan and draft EIS if received by August 17, 2016. The agency expects to release a draft revised forest plan and draft EIS by summer, 2017 and a final revised forest plan and final EIS by fall, 2018.

Authority: 16 U.S.C. 1600–1614; 36 CFR part 219 [77 FR 21260–21273].

Dated: July 1, 2016.

Joseph S. Norrell,

Deputy Forest Supervisor.

[FR Doc. 2016–16431 Filed 7–11–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Arizona Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southern Arizona Resource Advisory Committee (RAC) will meet in Tucson, Arizona. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held August 26, 2016 at 9:00 a.m. All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

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documents/ProgramStandardsAugust2014.pdf, or by writing to the Service at National Poultry Improvement Plan, APHIS, USDA, 1506 Klondike Road, Suite 101, Conyers, GA 30094.

ADDRESSES: The meeting will be held at 2646 E. Commerce Center Place, Tucson, AZ 85706, Tucson Interagency Fire Center, Ocotillo Room.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 300 W. Congress Street, Tucson, AZ 85701. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Veronica Van Hulle, RAC Coordinator by phone at 520–388–8424 or via email at *veronicarvanhulle@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request, in writing, by August 5, 2016 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Veronica Van Hulle, RAC Coordinator, 300 W. Congress Street, 6th Floor, Tucson, AZ 85701; by email to *veronicarvanhulle@fs.fed.us,* or via facsimile to 520–388–8305.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: June 10, 2016.

Debra Bumpus,

Deputy Forest Supervisor, Coronado National Forest.

[FR Doc. 2016–14582 Filed 7–11–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–45–2016]

Foreign-Trade Zone (FTZ) 189—Kent, Ottawa and Muskegon Counties, Michigan; Notification of Proposed Production Activity; Southern Lithoplate, Inc. (Aluminum Printing Plates); Grand Rapids, Michigan

The KOM Foreign Trade Zone Authority, grantee of FTZ 189, submitted a notification of proposed production activity to the FTZ Board on behalf of Southern Lithoplate, Inc. (SLP), located in Grand Rapids, Michigan. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on July 6, 2016.

SLP already has authority for the production of aluminum offset printing plates for the printing industry within Site 10 of FTZ 189. The current request would add foreign status materials/components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials/components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt SLP from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, SLP would be able to choose the duty rate during customs entry procedures that applies to aluminum printing plates (duty rate 3.7%) for the foreign-status materials/components noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The materials/components sourced from abroad include the following chemicals for photographic purposes: organic dyes; photoinitiators; photosensitizing dyes; polymers; triazine photoinitiators; pigments in solvent; acrylate polymers in solvent; novolak polymers in solvent; anion surfactants; emulsifiers in water; acrylate monomers; acrylic polymers; polyvinyl alcohols; acrylate oligomers in solvent; emulsifiers; polyvinylphenol; and, carboxymethyl cellulose (duty rate ranges from free to 6.5%). The request indicates that inputs classified under HTSUS Subheadings 3204.17, 3208.20 and 3208.90 will be admitted to the zone in privileged foreign status (19 CFR 146.41) or domestic status (19 CFR 146.43), thereby precluding inverted tariff benefits on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 22, 2016.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: July 7, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–16463 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–14–2016]

Foreign-Trade Zone (FTZ) 7—Mayaguez, Puerto Rico; Authorization of Proposed Production Activity; Lilly Del Caribe, Inc., Subzone 7K (Pharmaceutical Products); Carolina and Guayama, Puerto Rico

On March 8, 2016, the Puerto Rico Industrial Development Company, grantee of FTZ 7, submitted a notification of proposed production activity to the FTZ Board on behalf of Lilly Del Caribe, Inc. (Lilly), located within Subzone 7K in Carolina and Guayama, Puerto Rico.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 15681, March 24, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: July 6, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–16464 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–851]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4 ½ Inches) From Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the petitioner,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4 ½ inches) from Japan. The period of review (POR) is June 1, 2014, through May 31, 2015.[2] The review covers five producers or exporters of subject merchandise.[3] We preliminarily find that NKK Tubes (NKK) had no shipments during the POR. Further, we preliminarily find that subject merchandise has been sold at less than normal value by JFE Steel Corporation (JFE), Nippon Steel & Sumitomo Metal Corporation (NSSMC), Nippon Steel Corporation (NSC), and Sumitomo Metal Industries, Ltd. (SMI). Interested parties are invited to comment on these preliminary results.

DATES: Effective July 12, 2016.

FOR FURTHER INFORMATION CONTACT: Jennifer Shore or Peter Zukowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2778 or (202) 482–0189, respectively.

SUPPLEMENTARY INFORMATION:

Background

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll all administrative deadlines due to a closure of the Federal Government. As a result, the revised deadline for the preliminary results of this review was March 7, 2016.[4] On March 2, 2016, the Department extended the deadline for the preliminary results to July 5, 2016.

Scope of the Order

The merchandise subject to the antidumping duty order is certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4 ½ inches) from Japan, which is currently classified under subheading 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.19.10.30, 7304.19.10.45, 7304.19.10.60, 7304.19.50.50, 7304.31.60.10, 7304.31.60.50, 7304.39.00.04, 7304.39.00.06, 7304.39.00.08, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.15, 7304.51.50.45, 7304.51.50.60, 7304.59.20.30, 7304.59.20.55, 7304.59.20.60, 7304.59.20.70, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.[5]

Methodology

In accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we relied on facts available with an adverse inference with respect to NSSMC, the sole company selected for individual examination in this review, and we preliminarily assign to it a dumping margin of 106.07 percent. In making these findings, we relied on facts available because NSSMC failed to respond to the Department's antidumping duty questionnaire, and thus withheld requested information, failed to provide requested information by the established deadlines, and significantly impeded this proceeding. *See* sections 776(a)(1) and (2)(A)-(C) of the Act. Furthermore, because we preliminarily determine that NSSMC failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, we drew an adverse inference in selecting from among the facts otherwise available. *See* section 776(b) of the Act.

Additionally, as indicated in the "Preliminary Results of Review" section below, we preliminarily determine that a margin of 106.07 percent applies to the three firms not selected for individual review. For further information, *see* the Preliminary Decision Memorandum at "Rate for Non-Examined Companies."

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included in the Appendix attached to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at: *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Determination of No Shipments

Based on our analysis of U.S. Customs and Border Protection (CBP) information and information provided by NKK, we preliminarily determine that NKK had no shipments of the subject merchandise, and, therefore, no reviewable transactions, during the POR. For a full discussion of this determination, *see* the Preliminary Decision Memorandum. Consistent with our practice, we are not preliminarily rescinding the review with respect to NKK but, rather, we will complete the review with respect to this company and issue appropriate instructions to

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[1] The petitioner is United States Steel Corporation.

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 45947 (August 3, 2015).

[3] The five producers or exporters are: JFE Steel Corporation (JFE), Nippon Steel & Sumitomo Metal Corporation (NSSMC), Nippon Steel Corporation (NSC), NKK Tubes (NKK), and Sumitomo Metal Industries, Ltd. (SMI).

[4] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm 'Jonas,'" dated January 27, 2016. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.

[5] For a full description of the scope of the order, *see* the "Preliminary Decision Memorandum for the Administrative Review of the Antidumping Duty Order on Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Under 4 ½ Inches) from Japan; 2014–2015 Administrative Review" from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Preliminary Decision Memorandum).

CBP based on the final results of this review.[6]

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following dumping margins on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4 ½ inches) from Japan exist for the period June 1, 2014, through May 31, 2015, at the following rates:

Producer and/or Exporter	Margin (percent)
JFE Steel Corporation	106.07
Nippon Steel & Sumitomo Metal Corporation	106.07
Nippon Steel Corporation	106.07
Sumitomo Metals Industries	106.07

Disclosure and Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8] Interested parties who wish to comment on the preliminary results must file briefs electronically using ACCESS.[9] An electronically-filed document must be received successfully in its entirety in ACCESS, by 5 p.m. Eastern Time (ET) on the date the document is due.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. If the preliminary results are unchanged for the final results we will instruct CBP to apply an ad valorem assessment rate of 106.07 percent to all entries of subject merchandise during the POR which were produced and/or exported by NSSMC, and an ad valorem assessment rate of 106.07 percent to all entries of subject merchandise during the POR which were produced and/or exported by the three aforementioned companies which were not selected for individual examination.[10]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of certain small diameter carbon and alloy seamless standard, line, and pressure pipe (under 4 ½ inches) from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will continue to be 70.43 percent, the all-others rate established in the order.[11] These deposit requirements, when imposed, shall remain in effect until further notice.

Notifications to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 5, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Determination of No Shipments
V. Discussion of Methodology
  a. Use of Facts Otherwise Available
  i. Use of Facts Available
  ii. Application of Facts Available with and Adverse Inference
  iii. Selection and Corroboration of Information Used as Facts Available
  b. Rate for Non-Examined Companies
VI. Recommendation

[FR Doc. 2016–16473 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–DS–P

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[6] *See e.g., Certain Frozen Warmwater Shrimp From Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR at 51306 (August 28, 2014).

[7] *See* 19 CFR 351.309(d).

[8] *See* 19 CFR 351.303 (for general filing requirements).

[9] *Id.*

[10] *See* Preliminary Decision Memorandum at section V.b "Rate for Non-Examined Companies" (for an explanation of how we preliminarily determined the rate for non-selected companies).

[11] *See Notice of Antidumping Duty Orders: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and the Republic of South Africa,* 65 FR 39360 (June 26, 2000).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–850]

Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4 ½ Inches) From Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the petitioner,[1] the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4 ½ inches) from Japan. The period of review (POR) is June 1, 2014, through May 31, 2015.[2] The review covers five producers or exporters of subject merchandise.[3] We preliminarily find that NKK Tubes (NKK) had no shipments during the POR. Further, we preliminarily find that subject merchandise has been sold at less than normal value by JFE Steel Corporation (JFE), Nippon Steel & Sumitomo Metal Corporation (NSSMC), Nippon Steel Corporation (NSC), and Sumitomo Metal Industries, Ltd. (SMI). Interested parties are invited to comment on these preliminary results.

DATES: Effective July 12, 2016.

FOR FURTHER INFORMATION CONTACT: Jennifer Shore or Peter Zukowski, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2778 or (202) 482–0189, respectively.

SUPPLEMENTARY INFORMATION:

Background

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll all administrative deadlines due to a closure of the Federal Government. As a result, the revised deadline for the preliminary results of this review was March 7, 2016.[4] On March 2, 2016, the Department extended the deadline for the preliminary results to July 5, 2016.[5]

Scope of the Order

The merchandise subject to the antidumping duty order is certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4 ½ inches) from Japan, which is currently classified under subheading 7304.10.10.30, 7304.10.10.45, 7304.10.10.60, 7304.10.50.50, 7304.19.10.30, 7304.19.10.45, 7304.19.10.60, 7304.19.50.50, 7304.31.60.10, 7304.31.60.50, 7304.39.00.04, 7304.39.00.06, 7304.39.00.08, 7304.39.00.36, 7304.39.00.40, 7304.39.00.44, 7304.39.00.48, 7304.39.00.52, 7304.39.00.56, 7304.39.00.62, 7304.39.00.68, 7304.39.00.72, 7304.51.50.15, 7304.51.50.45, 7304.51.50.60, 7304.59.20.30, 7304.59.20.55, 7304.59.20.60, 7304.59.20.70, 7304.59.60.00, 7304.59.80.30, 7304.59.80.35, 7304.59.80.40, 7304.59.80.45, 7304.59.80.50, 7304.59.80.55, 7304.59.80.60, 7304.59.80.65, and 7304.59.80.70 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.[6]

Methodology

In accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we relied on facts available with an adverse inference with respect to NSSMC, the sole company selected for individual examination in this review, and we preliminarily assign to it a dumping margin of 107.80 percent. In making these findings, we relied on facts available because NSSMC failed to respond to the Department's antidumping duty questionnaire, and thus withheld requested information, failed to provide requested information by the established deadlines, and significantly impeded this proceeding. *See* sections 776(a)(1) and (2)(A)–(C) of the Act. Furthermore, because we preliminarily determine that NSSMC failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, we drew an adverse inference in selecting from among the facts otherwise available. *See* section 776(b) of the Act.

Additionally, as indicated in the "Preliminary Results of Review" section below, we preliminarily determine that a margin of 107.8 percent applies to the three firms not selected for individual review. For further information, *see* the Preliminary Decision Memorandum at "Rate for Non-Examined Companies."

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included in the Appendix attached to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at: *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Determination of No Shipments

Based on our analysis of U.S. Customs and Border Protection (CBP) information and information provided by NKK, we preliminarily determine that NKK had no shipments of the subject merchandise, and, therefore, no reviewable transactions, during the POR. For a full discussion of this determination, *see* the Preliminary Decision Memorandum. Consistent with our practice, we are not preliminarily rescinding the review with respect to NKK but, rather, we will complete the review with respect to this company and issue appropriate instructions to CBP based on the final results of this review.[7]

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[1] The petitioner is United States Steel Corporation.

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 45947 (August 3, 2015).

[3] The five producers or exporters are: JFE Steel Corporation (JFE), Nippon Steel & Sumitomo Metal Corporation (NSSMC), Nippon Steel Corporation (NSC), NKK Tubes (NKK), and Sumitomo Metal Industries, Ltd. (SMI).

[4] *See* Memorandum to the Record from Ron Lorentzen, Acting Assistant Secretary for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm 'Jonas,'" dated January 27, 2016. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day.

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "*Certain Large Diameter Carbon Alloy Seamless Standard, Line and Pressure Pipe (over 4 ½ inches) from Japan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,*" (March 2, 2016).

[6] For a full description of the scope of the order, *see* the "Preliminary Decision Memorandum for the Administrative Review of the Antidumping Duty Order on Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4 ½ Inches) from Japan; 2014–2015 Administrative Review" from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Preliminary Decision Memorandum).

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following dumping margins on certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan exist for the period June 1, 2014, through May 31, 2015, at the following rates:

Producer and/or Exporter	Margin (percent)
JFE Steel Corporation	107.80
Nippon Steel & Sumitomo Metal Corporation	107.80
Nippon Steel Corporation	107.80
Sumitomo Metals Industries	107.80

Disclosure and Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] Interested parties who wish to comment on the preliminary results must file briefs electronically using ACCESS.[10] An electronically-filed document must be received successfully in its entirety in ACCESS, by 5 p.m. Eastern Time (ET) on the date the document is due.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS, within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. If the preliminary results are unchanged for the final results we will instruct CBP to apply an ad valorem assessment rate of 107.80 percent to all entries of subject merchandise during the POR which were produced and/or exported by NSSMC, and an ad valorem assessment rate of 107.80 percent to all entries of subject merchandise during the POR which were produced and/or exported by the three aforementioned companies which were not selected for individual examination.[11]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of certain large diameter carbon and alloy seamless standard, line, and pressure pipe (over 4½ inches) from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will continue to be 68.88 percent, the all-others rate established in the order.[12] These deposit requirements, when imposed, shall remain in effect until further notice.

Notifications to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 5, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Determination of No Shipments
V. Discussion of Methodology
  a. Use of Facts Otherwise Available
i. Use of Facts Available
  ii. Application of Facts Available With and Adverse Inference
  iii. Selection and Corroboration of Information Used as Facts Available
  b. Rate for Non-Examined Companies
VI. Recommendation

[FR Doc. 2016–16474 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–DS–P

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[7] *See e.g., Certain Frozen Warmwater Shrimp From Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp From Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR at 51306 (August 28, 2014).

[8] *See* 19 CFR 351.309(d).

[9] *See* 19 CFR 351.303 (for general filing requirements).

[10] *Id.*

[11] *See* Preliminary Decision Memorandum at section V.b "Rate for Non-Examined Companies" (for an explanation of how we preliminarily determined the rate for non-selected companies).

[12] *See Notice of Antidumping Duty Orders: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and the Republic of South Africa,* 65 FR 39360 (June 26, 2000).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–894]

Certain Tissue Paper Products From the People's Republic of China: Continuation of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) in their five year (sunset) reviews that revocation of the antidumping duty (AD) order on certain tissue paper products (tissue paper) from the People's Republic of China (PRC) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the AD order on tissue paper from the PRC.

DATES: Effective July 12, 2016.

FOR FURTHER INFORMATION CONTACT: Brian Smith, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1766.

SUPPLEMENTARY INFORMATION:

Background

On March 30, 2005, the Department published the AD order on tissue paper from the PRC.[1] On June 1, 2015, the Department initiated[2] and the ITC instituted[3] a five-year ("sunset") review of the AD order on tissue paper from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its review, the Department determined that revocation of the AD order on tissue paper from the PRC would likely lead to a continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins of dumping likely to prevail were the order revoked.[4]

On July 5, 2016, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the AD order on tissue paper from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the Order

The tissue paper products covered by the order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may be under one or more of several different subheadings, including: 4802.30, 4802.54, 4802.61, 4802.62, 4802.69, 4804.31.1000, 4804.31.2000, 4804.31.4020, 4804.31.4040, 4804.31.6000, 4804.39, 4805.91.1090, 4805.91.5000, 4805.91.7000, 4806.40, 4808.30, 4808.90, 4811.90, 4823.90, 4802.50.00, 4802.90.00, 4805.91.90, 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

Excluded from the scope of this order are the following tissue paper products: (1) Tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.*, disposable sanitary covers for toilet seats; and (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTSUS 4803.00.20.00 and 4803.00.40.00).

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the AD order on tissue paper from the PRC would likely lead to a continuation or recurrence of dumping, and of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the AD order on tissue paper from the PRC. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

This five-year (sunset) review and notice are in accordance with section 751(c) and published pursuant to 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: July 5, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–16465 Filed 7–11–16; 8:45 am]

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[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China,* 70 FR 16223 (March 30, 2005).

[2] *See Initiation of Five-Year ("Sunset") Review,* 80 FR 31012 (June 1, 2015).

[3] *See Certain Tissue Paper Products From China; Institution of Five-Year Review,* 80 FR 31065 (June 1, 2015).

[4] *See Certain Tissue Paper Products from the People's Republic of China: Final Results of Expedited Sunset Review of the Antidumping Duty Order,* 80 FR 59734 (October 2, 2015).

[5] *See Certain Tissue Paper Products From China; Determination,* 81 FR 43642 (July 5, 2016).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the

antidumping duty order on chlorinated isocyanurates (chlorinated isos) from the People's Republic of China (PRC). The period of review (POR) is June 1, 2014, through May 31, 2015. This administrative review covers three producers/exporters: (1) Heze Huayi Chemical Co. Ltd. (Heze Huayi); (2) Hebei Jiheng Chemical Co., Ltd. (Jiheng); and (3) Juancheng Kangtai Chemical Co., Ltd. (Kangtai). We preliminarily determine that Heze Huayi, Jiheng, and Kangtai made sales in the United States at prices below normal value (NV). Interested parties are invited to comment on these preliminary results.

DATES: Effective July 12, 2016.

FOR FURTHER INFORMATION CONTACT: Sean Carey, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3964.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the order are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones.[1] Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.

Methodology

The Department is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). Export and Constructed Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. A list of the topics included in the Preliminary Decision Memorandum is included as an appendix to this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *http://access.trade.gov* and in the Department's Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period of June 1, 2014 through May 31, 2015:

Exporter	Weight-average dumping margin percentage
Heze Huayi Chemical Co., Ltd.	60.43
Hebei Jiheng Chemical Co., Ltd.	68.26
Juancheng Kangtai Chemical Co., Ltd.	40.60

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review.[2] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[3] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 30 days of the date of publication of this notice.[5] Requests should contain: (1) The party's name, address and telephone number; (2) The number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[6]

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuing the final results of this review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[7] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.*, 0.50 percent), the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales.[8] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de minimis*. Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

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[1] For a complete description of the Scope of the Order, *see* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Results of the 2013–2014 Antidumping Duty Administrative Review: Chlorinated Isocyanurates from the People's Republic of China," dated concurrently with this notice (Preliminary Decision Memorandum).

[2] *See* 19 CFR 351.309(c)(1)(ii).

[3] *See* 19 CFR 351.309(d)(1) and (2).

[4] *See* 19 CFR 351.309(c) and (d); *see also* 19 CFR 351.303 (for general filing requirements).

[5] *See* 19 CFR 351.310(c).

[6] *See* 19 CFR 351.310(d).

[7] *See* 19 CFR 351.212(b)(1).

[8] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

For entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.[9]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the existing producer/exporter-specific combination rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be eligible for a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent;[10] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: July 5, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Non-Market Economy Country Status
5. Separate Rates
6. Surrogate Country
7. Date of Sale
8. Normal Value Comparisons
9. Factor Valuation Methodology
10. Surrogate Values
11. Comparisons to Normal Value
12. Adjustments for Countervailable Subsidies
13. Currency Conversion

[FR Doc. 2016–16466 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Conference on Weights and Measures 101st Annual Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The 101st Annual Meeting of the National Conference on Weights and Measures (NCWM) will be held in Denver, Colorado, from Sunday, July 24, 2016, through Thursday, July 28, 2016. This notice contains information about significant items on the NCWM Committee agendas but does not include all agenda items. As a result, the items are not consecutively numbered.

DATES: The meeting will be held on Sunday, July 24, 2016, through Wednesday, July 27, 2016, from 8:00 a.m. to 5:00 p.m. Mountain Time, and on Thursday, July 28, 2016 from 9:00 a.m. to 12:00 p.m. Mountain Time. The meeting schedule is available at *www.ncwm.net*.

ADDRESSES: This meeting will be held at the Grand Hyatt Denver, 1750 Welton Street, Denver, Colorado 80202–3999.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Butcher, NIST, Office of Weights and Measures, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600. You may also contact Mr. Butcher at (301) 975–4859 or by email at *kenneth.butcher@nist.gov*. The meeting is open to the public, but a paid registration is required. Please see the NCWM Web site (*www.ncwm.net*) to view the meeting agendas, registration forms, and hotel reservation information.

SUPPLEMENTARY INFORMATION: Publication of this notice on the NCWM's behalf is undertaken as a public service; NIST does not endorse, approve, or recommend any of the proposals or other information contained in this notice or in publications produced by the NCWM.

The NCWM is an organization of weights and measures officials of the states, counties, and cities of the United States, and representatives from the private sector and federal agencies. These meetings bring together government officials and representatives of business, industry, trade associations, and consumer organizations on subjects related to the field of weights and measures technology, administration, and enforcement. NIST participates to encourage cooperation between federal agencies and the states in the development of legal metrology requirements. NIST also promotes uniformity state laws, regulations, and testing procedures used in the regulatory control of commercial weighing and measuring devices, packaged goods, and for other trade and commerce issues.

The following are brief descriptions of some of the significant agenda items that will be considered at the NCWM Annual Meeting. Comments will be taken on these and other issues during public comment sessions. This meeting also includes work sessions in which the Committees may also accept comments, and where they will finalize recommendations for possible adoption at this meeting. The Committees may also withdraw or carryover items that need additional development.

These notices are intended to make interested parties aware of these development projects and to make them aware that reports on the status of the project will be given at the Annual Meeting. The notices are also presented to invite the participation of manufacturers, experts, consumers, users, and others who may be interested in these efforts.

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[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

[10] *See Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502, 24505 (May 10, 2005).

The Specifications and Tolerances Committee (S&T Committee) will consider proposed amendments to NIST Handbook 44, "Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices." Those items address weighing and measuring devices used in commercial applications, that is, devices used to buy from or sell to the public or used for determining the quantity of products or services sold among businesses. Issues on the agenda of the NCWM Laws and Regulations Committee (L&R Committee) relate to proposals to amend NIST Handbook 130, "Uniform Laws and Regulations in the area of Legal Metrology and Engine Fuel Quality" and NIST Handbook 133, "Checking the Net Contents of Packaged Goods."

NCWM S&T Committee

The following items are proposals to amend NIST Handbook 44:

Automatic Bulk Weighing Systems

Item 322–2 N.1. Testing Procedures. and T. Tolerances

The current testing procedures specified in the Automatic Bulk Weighing Systems (ABWS) Code are intended to be performed statically using field standard test weights or a combination of test weights and material substituted for test weights. Nowhere within the ABWS Code is it mentioned that a material test should be performed with the system in normal operational mode using material of known quantity as a reference standard. At the January 2016 NCWM Interim Meeting, the S&T Committee agreed to present for vote, at the upcoming Meeting, a proposal that makes optional (*i.e.,* at the discretion of the official performing the test) a material test. The intent of this additional test is to allow the official to determine the accuracy of the device under actual operating conditions.

Weigh-In-Motion Systems Used for Vehicle Enforcement Screening

Item 325–1 Section A. Application and Other Sections Throughout the Code To Address Commercial and Law Enforcement Applications

In February 2016, the NCWM formed a new task group to consider a proposal to expand the tentative code for Weigh-In-Motion Systems Used for Vehicle Enforcement Screening in NIST Handbook 44 to include commercial and law enforcement applications. This proposed amendment is a "Developing Item" on the S&T Committee's 2016 agenda and will *not* be voted on at this meeting.

The purpose of this notice is to make users and other stakeholders aware of the proposal to expand the scope of the existing code and the formation of the task group. The task group includes representatives of equipment manufacturers, the U.S. Department of Transportation Federal Highway Administration, truck weight enforcement agencies, state weights and measures offices, and others. For more information on this task group contact Mr. Richard Harshman, NIST Technical Advisor at (301) 975–8107 or *richard.harshaman@nist.gov.*

LPG and Anhydrous Ammonia Liquid-Measuring Devices

Item 332–2 S.1.4.3. Provisions for Power Lost, S1.5.1.1. Unit Price, S.1.5.1.2. Product Identity, S.1.6. for Retail Motor Vehicle Fuel Devices Only, S.1.7. for Wholesale Devices Only, U.R. 2.7. Unit Price and Product Identity, and UR.2.8. Computing Device

Retail motor-fuel dispensers used to dispense refined fuels such as gasoline and diesel are regulated under the Liquid-Measuring Devices (LMD) Code in NIST Handbook 44. The LMD Code has been repeatedly revised over the past 20 years to reflect changes in technology and marketing practices surrounding the sale of these fuels; however, corresponding changes have not always been made to the LPG and Ammonia Liquid-Measuring Devices code. The proposed changes under this item are designed to align the LPG and Ammonia Liquid-Measuring Devices code with the LMD code and help promote uniformity in device requirements and practices and ensure fair competition between competing businesses.

Mass Flow Meters

Item 337–2 Appendix D—Definitions: Diesel Liter and Diesel Gallon Equivalents of Natural Gas

In 1994 both liter and gallon "equivalents" for gasoline were established by the NCWM to provide a means for consumers to make value and fuel economy comparisons between compressed natural gas (CNG) and gasoline, and to promote broader acceptance and use of CNG as a vehicle fuel. These "equivalents" are based on a specific weight (mass) per volume, called the gasoline liter equivalent (GLE) and gasoline gallon equivalent (GGE), and are calculated using an estimate of the "average" equivalent energy content—a number provided by industry. For several years, the NCWM Specifications and Tolerances (S&T) and Laws and Regulations (L&R) Committees have deliberated on proposals to establish and/or revise requirements for the method of sale and commercial measurement of LNG and CNG. The purpose of this item is to define acceptable units of measurement and identify requirements for equipment used to commercially measure these products.

Also L&R Items 232–8, NIST Handbook 130, Method of Sale Regulations and Item 237–1, NIST Handbook 130, Uniform Engine Fuels and Automotive Lubricants Regulation are similar proposals being considered on this issue.

Hydrogen Gas-Metering Devices

Item 339–2 Table T.2. Accuracy Classes and Tolerances for Hydrogen Gas-Measuring Devices

The NIST Handbook 44, Hydrogen-Gas Measuring Devices code was added to NIST Handbook 44 in 2010 as a "Tentative Code." As is often the case with a tentative code, it is expected that adjustments will need to be made to the code prior to changing its status to "permanent" as experience is gained by industry and regulatory offices on the operation, testing, and use of the devices covered by that code.

The tolerances currently specified in the NIST Handbook 44, Hydrogen-Gas Measuring Devices code are ± 1.5% for Acceptance Tolerance and ± 2.0% for Maintenance Tolerance. According to the submitter of this proposal, no hydrogen-gas dispenser manufacturers can meet the tolerances currently specified in the tentative code. This item proposes establishing multiple accuracy classes in which Acceptance Tolerances would range from ± 1.5% to ± 5.0% and Maintenance Tolerances would range from ± 2.0% to ± 10.0%. The proposal places limits on the installation of certain accuracy classes after specified dates. After January 1, 2020, newly installed devices will be required to meet the current, more stringent tolerances; however, larger tolerances may continue to apply to devices installed prior to that date. This proposal would also permit devices of different accuracies to be used in the same application.

Taximeters

Item 354–5 U.S. National Work Group on Taximeters (USNWG)—Taximeter Code Revisions and Global Positioning System (GPS)-Based Systems for Time and Distance Measurement and

Item 354–6 Transportation Network Systems—Draft Code

For several years, the NIST USNWG on Taximeters has discussed possible approaches for amending the NIST Handbook 44, Taximeters Code to specifically recognize GPS-based time and distance measuring systems that are used to assess charges for transportation services such as taxicabs and limousines. Appropriate specifications, tolerances, and other technical requirements for these devices must be developed for manufacturers and users of these devices, as well for weights and measures officials. Such requirements help ensure accuracy and transparency for customers and a level playing field for transportation service companies, enabling consumers to make value comparisons between competing services. In the fall of 2015, the California Division of Measurement Standards submitted a proposal through multiple regional weights and measures associations to establish a separate NIST Handbook 44 code to address "Transportation Network Services." The S&T Committee will examine these proposals and the result of recent discussions from a November 2015 USNWG meeting to assess how to best address these systems.

NCWM L&R Committee

The following items are proposals to amend NIST Handbook 130 or NIST Handbook 133:

NIST Handbook 130—Section on Uniform Regulation for the Method of Sale of Commodities

Item 232–7 2.23. Animal Bedding

The L&R Committee will consider a proposal to recommend adoption of a uniform method of sale for animal bedding that will enhance the ability of consumers to make value comparisons and will ensure fair competition. Animal Bedding is generally defined as any material, except for baled straw, that is kept, offered or exposed for sale or sold to retail consumers for primary use as a medium for any pet or companion or livestock animal to nest or eliminate waste. If adopted, the proposal will require packers to advertise and sell packages of animal bedding on the basis of the expanded volume of the bedding. Most packages of animal bedding are compressed during packaging and the expanded volume is the amount of product that consumers will recover through unwrapping and decompressing the bedding according to the instructions provided by the packer. See also Item 260–5, Section 3.15. Test Procedure for Verifying the Usable Volume Declaration on Packages of Animal Bedding.

NIST Handbook 133—Chapter 3

Item 260–3 Section 3.14. Firewood—(Volumetric Test Procedures for Packaged Firewood With a Labeled Volume of 113 L [4 ft^3] or Less)

The current test procedure in NIST Handbook 133, Section 3.14., Firewood—(Volumetric Test Procedure for Packaged Firewood with a Labeled Volume of 113 L [4ft^3] or Less) has provided different test results when applied in various state inspections. If adopted, this proposal would clarify the test procedure and improve the accuracy of length determinations when determining the volume of wood in bags, bundles and boxes. Improving the test procedures will help ensure that consumers can make value comparisons and reduce unfair competition. Also Item 232–4, NIST Handbook 130, Method of Sale of Sale of Commodities Regulation, Section 2.4. Fireplace and Stove Wood, is being considered for revision to recognize traditional industry labeling practice and eliminate language that appears to conflict with the requirements of the Uniform Packaging and Labeling Regulation.

Authority: 15 U.S.C. 272(b).

Kevin Kimball,
Chief of Staff.

[FR Doc. 2016–16372 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Request for Nominations of Members To Serve on the National Advisory Committee on Windstorm Impact Reduction

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) invites and requests nomination of individuals for appointment to the National Advisory Committee on Windstorm Impact Reduction (Committee). This is a new Federal Advisory Committee established pursuant to the National Windstorm Impact Reduction Act Reauthorization of 2015 (Pub. L. 114–52). NIST will consider nominations received in response to this notice for appointment to the Committee.

DATES: Please submit nominations on or before Friday, August 19, 2016.

ADDRESSES: Please submit nominations to Tina Faecke, Administrative Officer, National Windstorm Impact Reduction Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8630, Gaithersburg, MD 20899–8630. Nominations may also be submitted via FAX to 301–975–5433 or email at *tina.faecke@nist.gov.*

Additional information regarding the Committee, including its charter, may be found on the NWIRP electronic home page at: *http://www.nist.gov/el/nwirp/.*

FOR FURTHER INFORMATION CONTACT: Dr. Marc Levitan, Acting Director, National Windstorm Impact Reduction Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8611, Gaithersburg, MD 20899–8611, telephone 301–975–5340, fax 301–975–5433; or via email at *marc.levitan@nist.gov.*

SUPPLEMENTARY INFORMATION: *Committee Information:* The Committee was established in accordance with the requirements of the National Windstorm Impact Reduction Act of 2004, Public Law 108–360, Title II, as amended by the National Windstorm Impact Reduction Act Reauthorization of 2015, Public Law 114–52, codified at 42 U.S.C. 15704, and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Objectives and Duties

1. The Committee will assess trends and developments in the natural, engineering, and social sciences and practices of windstorm impact mitigation, priorities of the National Windstorm Impact Reduction Program's (Program) Strategic Plan, coordination of the Program, effectiveness of the Program in meeting its purposes under section 204 (42 U.S.C. 15703) of the National Windstorm Impact Reduction Act of 2004, as amended, (Pub. L. 114–52); and, any revisions to the Program which may be necessary.
2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.
3. The Committee shall report to the Director of NIST.
4. At least once every two years, the Committee shall report to the Director of

NIST on its findings of the assessments described above and its recommendations for ways to improve the Program.

Membership

1. The Committee will consist of not fewer than 7 nor more than 15 members. Members shall be selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting the Program. Members shall reflect the wide diversity of technical disciplines, competencies, and communities involved in windstorm impact reduction. Members who are qualified to provide advice on windstorm impact reduction and represent related scientific, architectural, and engineering disciplines, will be drawn from communities having an interest in the Program, including, but not limited to, representatives of research and academic institutions, industry standards development organizations, emergency management agencies, State and local government, and business communities including the insurance industry.

2. The Director of NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

3. No committee member may be an "employee" as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5 of the United States Code.

Miscellaneous

1. Members of the Committee will not be compensated for their services, but may, upon request, be allowed travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.*, while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Members of the Committee shall serve as Special Government Employees and are required to file an annual Executive Branch Confidential Financial Disclosure Report.

3. The Committee shall meet at least once per year. Additional meetings may be called whenever the Director of NIST or the Committee Chair requests a meeting.

4. The Committee shall terminate on September 30, 2017.

Nomination Information

1. Nominations are sought from industry and other communities having an interest in the Program, such as, but not limited to, research and academic institutions, industry standards development organizations, emergency management agencies, state and local government, and business communities, including the insurance industry, who are qualified to provide advice on windstorm impact mitigation and represent related scientific, architectural, and engineering disciplines.

2. Nominees should have established records of distinguished service. The field of expertise that the candidate represents should be specified in the nomination letter. Nominations for a particular field should come from organizations or individuals within that field. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledges the responsibilities of serving on the Committee, and will actively participate in good faith in the tasks of the Committee.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Kevin Kimball,
Chief of Staff.

[FR Doc. 2016–16373 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–35–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Western Alaska Community Development Quota (CDQ) Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before September 12, 2016.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *Patsy.Bearden@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

The Western Alaska Community Development Quota (CDQ) Program is an economic development program associated with federally managed fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI). The CDQ Program receives apportionments of the annual catch limits for a variety of commercially valuable species in the BSAI, which are in turn allocated among six different non-profit managing organizations representing different affiliations of communities (CDQ groups). The CDQ Program redistributes a portion of commercially important BSAI fisheries species to adjacent communities. There are 65 communities participating in the program. CDQ groups use the revenue derived from the harvest of their fisheries allocations as a basis both for funding economic development activities and for providing employment opportunities. Thus, the successful harvest of CDQ Program allocations is integral to achieving the goals of the program.

National Marine Fisheries Service (NMFS) manages the groundfish fisheries in the exclusive economic zone off Alaska. NMFS manages the groundfish and crab fisheries of the BSAI under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMPs). The North Pacific Fishery Management Council prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation & Management Act (16 U.S.C. 1801 *et seq.*) as amended in 2006. The International Pacific Halibut Commission and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982. Regulations implementing the FMPs appear at 50 CFR parts 300, 679, and 680.

II. Method of Collection

By fax, by mail, and online.

III. Data

OMB Control Number: 0648–0269.

Form Number(s): None.

Type of Review: Extension of a current information collection.

Affected Public: Business or other for-profit organizations; Not-for-profit institutions.

Estimated Number of Respondents: 13.

Estimated Time per Response: 5 minutes to register and 5 minutes to print letter for CDQ Vessel Registration System; 35 minutes for Groundfish/Halibut CDQ or Prohibited Species Quota (PSQ) Transfer Request; 5 hours for Application for Approval of Use of Non-CDQ Harvest Regulations; and 4 hours for Appeals.

Estimated Total Annual Burden Hours: 25.

Estimated Total Annual Cost to Public: $7 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 7, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–16418 Filed 7–11–16; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No.: CFPB–2016–0034]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection titled, "Consumer Advisory Boards, Groups and Committees."

DATES: Written comments are encouraged and must be received on or before August 11, 2016 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection. *Please note that comments submitted after the comment period will not be accepted.* In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov (this link becomes active on the day following publication of this notice).* Select "Information Collection Review," under "Currently under review, use the dropdown menu "Select Agency" and select "Consumer Financial Protection Bureau" (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW.. Washington, DC 20552, (202) 435–9575, or email: *CFPB_PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Consumer Advisory Boards, Groups and Committees.

OMB Control Number: 3170–0037.

Type of Review: Extension without change of a currently approve collection.

Affected Public: Individuals.

Estimated Number of Respondents: 425.

Estimated Total Annual Burden Hours: 503.

Abstract: The Consumer Advisory Board (CAB) and other Advisory Groups may invite individuals with special expertise to advise the groups on an ad hoc basis (Special Advisors). The selection-related information will allow the Bureau to obtain information on the qualifications of individuals nominated to the CAB and will aid the Bureau in selecting members for other Advisory Groups. The selection-related information from potential Special Advisors will aid the Bureau in selecting Special Advisors to the CAB and other Advisory Groups. The selection-related information will also aid the Bureau in determining the appropriateness of participation in particular matters. The information collected/advice from members and Special Advisors will aid the Bureau in the exercise of its functions. The feedback collected will allow the Bureau to evaluate and improve its advisory group program. Information collected will be used to issue travel orders or provide reimbursement for travel expenses, as applicable.

REQUEST FOR COMMENTS: The Bureau issued a 60-day **Federal Register** notice on April 26, 2016 (81 FR 24567). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: July 6, 2016.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2016–16446 Filed 7–11–16; 8:45 am]

BILLING CODE 4810–AM–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of application instructions for Martin Luther King Jr. Day of Service (MLK Day) and September 11th Day of Service and Remembrance (September 11).

Brief description: Applicants for MLK Day and September 11 will submit an application following the application instructions. Applicants may apply for MLK Day, September 11, or both. The application is required to be considered for grant funding support from MLK Day or September 11.

Copies of the information collection request can be obtained by contacting the office listed in the Addresses section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by September 12, 2016.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, CPO Office; Attention Patti Stengel, Senior Program Officer for Grants and Initiatives, Room 3208B; 250 E St SW., Washington, DC, 20525.

(2) By hand delivery or by courier to the CNCS mailroom at Room 4200 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through *www.regulations.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patti Stengel, 202–606–6745, or by email at *pstengel@cns.gov.*

SUPPLEMENTARY INFORMATION:

CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submissions of responses).

Background

Applicants use these application instructions to submit their application for the competitive funding available to hold service events on either MLK Day or September 11 or both. The application information is collected electronically through the CNCS eGrants system.

Current Action

This is a new information collection request. Previously the application instructions were separate for both MLK Day and September 11. This new information collection combines the approved specific instructions for MLK Day and the instructions for September 11, which used the approved generic CNCS application instructions. In the future, there will be one "Days of Service" competition for both of these grants.

The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application for MLK Day is due to expire on 03/31/2017. The current generic application for September 11 is due to expire on 01/31/2018.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Day of Service Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: The public affected are applicant organizations for MLK Day and September 11 grants. The following organizations are eligible to apply: public or private nonprofit organizations (including faith-based and other community organizations); institutions of higher education; government entities within states or territories (*e.g.,* cities, counties); local government as defined in 2 CFR 200.64, government-recognized veteran service organizations; labor organizations; partnerships and consortia; and Indian Tribes.

Total Respondents: An estimated 70 organizations will respond.

Frequency: At most, the frequency is annual. The Day of Service competition will result in three year grants. Awarded applicants will also use these instructions to apply annually for continuation funding.

Average Time per Response: Averages 20 hours.

Estimated Total Burden Hours: 1,400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 6, 2016.

Kim Mansaray,

Chief of Program Operations.

[FR Doc. 2016–16524 Filed 7–11–16; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2013–OS–0111]

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DoD.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 12, 2016

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Logistics Agency Headquarters, ATTN: Mr. Eric Linneman, DLA Installation Support (DS–S), 8725 John J. Kingman Rd., Ft. Belvoir, VA 22060–6221; or call (703) 767–5019.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Logistics Agency (DLA) Police Center Records (POLC); DLA Form 635; OMB Control Number 0704–0514.

Needs and Uses: DLA police require an integrated police records management system, PoliceCenter (POLC), to automate and standardize all of the common record keeping functions of DLA police. POLC provides records management of police operations, including property, incident reports, blotters, qualifications, dispatching, and other police information management considerations. The tool allows authorized users the capability to collect, store, and access sensitive law enforcement information gathered by Police Officers. The tool allows DLA Police to automate many police operational functions and assist with crime rate and trend analysis. Relevant law enforcement matters include, but are not limited to: traffic accidents, illegal parking, firearms records, suspicious activity, response to calls for service, criminal activity, alarm activations, medical emergencies, witnesses, victims, or suspect in a police matter, or any other situation which warrants police contact as outlined in DoD Directives and DLA Policy. In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

—To Federal, State, and local agencies having jurisdiction over or investigative interest in the substance of the investigation, for corrective action, debarment, or reporting purposes.

—To Government contractors employing individuals who are subjects of an investigation.

—To DLA contractors or vendors when the investigation pertains to a person they employ or to a product or service they provide to DoD when disclosure is necessary to accomplish or support corrective action.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Annual Burden Hours: 225.

Number of Respondents: 450.

Responses per Respondent: 1.

Annual Responses: 450.

Average Burden per Response: 0.50 hours (30 minutes).

Frequency: On occasion.

Respondents are individuals who work on or visit Defense Logistics Agency Installations and are involved in police matters.

Dated: July 6, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–16384 Filed 7–11–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Termination of Intent To Prepare a Draft Environmental Impact Statement for the Dam Safety Study, Lewisville Dam, Elm Fork Trinity River, Denton County, Texas

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent; withdrawal.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Fort Worth District, is issuing this notice to advise Federal, state, and local governmental agencies and the public that USACE is withdrawing its Notice of Intent (NOI) to prepare a Draft Environmental Impact Statement (EIS) for the Dam Safety Study, Lewisville Dam, Elm Fork Trinity River, Denton County, Texas.

DATES: The Fort Worth District is planning to hold the next public meeting for the Dam Safety Study, Lewisville Dam, Elm Fork Trinity River, Denton County, TX on Tuesday, September 27, 2016 from 6:00–8:00 p.m. in the Black Box Theater Room at the Lewisville Grand Theater. Notice of this meeting will be sent to all appropriate parties at a later date.

ADDRESSES: U.S. Army Corps of Engineers, Regional Planning and Environmental Center, CESWF–PEC–CI (Attn: Ms. Marcia Hackett), 819 Taylor Street, Room 3A12, Fort Worth, TX 76102.

FOR FURTHER INFORMATION CONTACT: Marcia Hackett, Senior Environmental Planner, Regional Planning and Environmental Center. Email address: *marcia.r.hackett@usace.army.mil.*

SUPPLEMENTARY INFORMATION: USACE published an NOI in the **Federal Register** on August 15, 2013 (78 FR 49735) to prepare a Draft EIS pursuant to the National Environmental Policy Act (NEPA) for the Dam Safety Study, Lewisville Dam, Elm Fork Trinity River, Denton County, TX. Public scoping meetings were held on August 20, 2013 and November 16, 2015 to solicit public input on the scope of analysis; significant issues to be evaluated in the Draft EIS; cooperating agencies; direct, indirect and cumulative impacts resulting from the proposed action; and proposed alternatives. Since that time, in the course of project planning and preliminary impact analysis, it no longer appears that impacts associated with project implementation would rise to a level necessitating an EIS, so the Fort Worth District has decided to complete NEPA compliance by preparing an Environmental Assessment instead. Therefore, the Fort Worth District is withdrawing the NOI to prepare a Draft EIS.

Douglas C. Sims,

Chief, Environmental Compliance Branch, Regional Planning and Environmental Center.

[FR Doc. 2016–16517 Filed 7–11–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.420A]

Reopening; Application Deadline for Fiscal Year 2015; Performance Partnership Pilots

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: On April 26, 2016, we published in the **Federal Register** (81 FR 24573) a notice inviting applications (NIA) for the Fiscal Year (FY) 2015 Performance Partnership Pilots (P3) competition. The NIA established a deadline date of June 27, 2016, for the transmittal of applications. This notice reopens the competition until July 19, 2016.

DATES:

Deadline for Transmittal of Applications: July 19, 2016.

Deadline for Intergovernmental Review: September 15, 2016.

SUPPLEMENTARY INFORMATION: We are reopening this competition in order to allow applicants more time to prepare and submit their applications. A number of applications received in response to the NIA were not eligible because the applications did not meet all of the requirements in the NIA, including the deadline for the submission of applications. Therefore, we are reopening the competition to allow applicants to submit or resubmit applications that meet all of the requirements in the NIA.

Applicants that have already submitted applications under the FY 2015 P3 competition are encouraged to review their applications and determine whether they have met all eligibility and application requirements, including the original deadline for submission, in the NIA and the application package, which is available on the *Grants.gov* Apply site. Applicants may review a recorded Webinar that discusses the eligibility and application requirements at *http://youth.gov/youth-topics/reconnecting-youth/performance-partnership-pilots/round-2-bidders-conference-recording.*

As stated above, applicants may resubmit applications that may not have met all of the requirements in the NIA. Applicants that have already submitted timely applications that meet all of the requirements of the NIA do not have to resubmit their applications. If a new application is not submitted, the Department will use the application that was submitted before the June 27, 2016, 4:30:00 p.m., Washington, DC time, deadline. Applications that did not meet the June 27, 2016, 4:30 p.m., Washington, DC time, deadline must be resubmitted to be considered for review.

Note: All information in the NIA for this competition remains the same, except for the deadline date. We remind applicants that, to be eligible, the application must be submitted by a State, local, or tribal government. Further, the application must identify two or more discretionary Federal programs[1] that will be included in the pilot, at least one of which must be administered (in whole or in part) by a State, local, or tribal government. These programs must be discretionary programs administered by one of the agencies to which the P3 authority provided in the Consolidated and Further Continuing Appropriations Act, 2015 (2015 Appropriations Act) or the Consolidated Appropriations Act, 2016 (2016 Appropriations Act) applies. These agencies are the Departments of Education (ED), Health and Human Services (HHS), Justice (DOJ),[2] and Labor (DOL), the Corporation for National and Community Service (CNCS), and the Institute for Museum and Library Services (IMLS).[3] Further, applicants are reminded that, to be eligible for the FY 2015 competition, applications must include some eligible FY 2015 funds from programs at ED, HHS, DOL, CNCS, and IMLS. Applicants may also include FY 2016 funds in their applications, including programs funded under DOJ's Office of Justice Programs, due to the authority in the 2016 Appropriations Act. However, if an applicant intends to use solely FY 2016 or FY 2017 funds, it is not eligible to be a FY 2015 pilot.

FOR FURTHER INFORMATION CONTACT: Marilyn Fountain, U.S. Department of Education, 400 Maryland Avenue SW., Room 11026, Potomac Center Plaza (PCP), Washington, DC 20202. Telephone: (202) 245–7346. Email address: *disconnectedyouth@ed.gov.* Or Rosanne Andre, U.S. Department of Education, 400 Maryland Avenue SW., Room 11070, PCP, Washington, DC 20202. Telephone: (202) 245–7789. Email address: *disconnectedyouth@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to either of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT** in this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

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[1] Discretionary funds are funds that Congress appropriates on an annual basis, rather than through a standing authorization. They exclude "entitlement" (or mandatory) programs such as Social Security, Medicare, Medicaid, most Foster Care IV–E programs, Vocational Rehabilitation State Grants, and Temporary Assistance to Needy Families. Discretionary programs administered by the Agencies (as defined in the NIA) support a broad set of public services, including education, job training, health and mental health, and other low-income assistance programs.

[2] Under the language of the 2015 Appropriations Act, applicants may not propose to blend or request any waiver of program requirements associated with FY 2015 funds from DOJ's Office of Justice Programs in this competition. However, they may propose to braid those funds in this round of pilots. Additionally, applicants may include (by blending, braiding, or requesting associated waivers of program requirements) FY 2016 funds from DOJ's Office of Justice Programs.

[3] The 2016 Appropriations Act authorizes the Department of Housing and Urban Development (HUD) to enter into performance agreements with respect to FY 2016 Homeless Assistance Grants. HUD is not authorized to enter into performance agreements that will be established under the April 26, 2016 NIA. An NIA for FY 2016 pilots that may include FY 2016 Homeless Assistance Grants is expected to be issued later this year.

Dated: July 7, 2016.

Johan E. Uvin,

Deputy Assistant Secretary, Delegated the Duties of the Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2016–16454 Filed 7–11–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–422]

Application To Export Electric Energy; Tidal Energy Marketing Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Tidal Energy Marketing, Inc. (Applicant or Tidal) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before August 11, 2016.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On June 8, 2016, DOE received an application from Tidal for authority to transmit electric energy from the United States to Canada as a power marketer for five years using existing international transmission facilities. Tidal is contemporaneously applying to make wholesale power sales at market-based rates from the Federal Energy Regulatory Commission (FERC).

In its application, Tidal states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that Tidal proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by Tidal have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning Tidal's application to export electric energy to Canada should be clearly marked with OE Docket No. EA–422. An additional copy is to be provided directly to both Stacy Myers, Enbridge Energy Company, Inc., 1100 Louisiana, Suite 3300, Houston, TX 77002 and Kari Olesen, Tidal Energy Marketing Inc., 425 1st Street SW., Calgary, Alberta T2P 3L8.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on July 5, 2016.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2016–16442 Filed 7–11–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Amended Record of Decision for the Continued Operation of the Y–12 National Security Complex

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Record of decision.

SUMMARY: The National Nuclear Security Administration (NNSA), a separately organized agency within the U.S. Department of Energy (DOE), is amending its July 20, 2011, Record of Decision for the Continued Operation of the Y–12 National Security Complex (2011 ROD) (76 FR 43319) to reflect its decision to implement a revised approach for meeting enriched uranium (EU) requirements, by upgrading existing EU processing buildings and constructing a new Uranium Processing Facility (UPF). Additionally, NNSA has decided to separate the single-structure UPF design concept into a new design consisting of multiple buildings, with each constructed to safety and security requirements appropriate to the building's function. This revised approach is a hybrid of two alternatives previously analyzed in the 2011 *Final Site-Wide Environmental Impact Statement for the Y–12 National Security Complex,* DOE/EIS–0387 (Y–12 SWEIS). The scope of this Amended ROD is limited to actions which have been found necessary to sustain Y–12's capability to conduct EU processing operations in a safe and secure environment. Those actions are also addressed in a Supplement Analysis (SA) (DOE/EIS–0387–SA–01), issued by NNSA in April 2016. All other defense mission activities and non-defense mission activities conducted at Y–12 under the alternative selected for implementation in the 2011 ROD are outside the scope of this decision. As a result of preparing the SA, NNSA has determined that no further National Environmental Policy Act (NEPA) analysis is needed to support this Amended ROD.

FOR FURTHER INFORMATION CONTACT: For further information on this Amended ROD, the SA, or to receive a copy of the SA, contact: Ms. Pam Gorman, SA Document Manager, U.S. Department of Energy, National Nuclear Security Administration, UPF Project Office, P.O. Box 2050, Oak Ridge, TN 37831–8116; or *Pamela.Gorman@upo.doe.gov;* or (865) 576–9918. For information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA

Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600, or leave a message at (800) 472–2756. This Amended ROD, the SA, and related NEPA documents are available on the DOE NEPA Web site at *www.energy.gov/nepa*.

SUPPLEMENTARY INFORMATION:

Background

Y–12 is NNSA's primary site for uranium operations, including EU processing and storage, and is one of the primary manufacturing facilities for maintaining the U.S. nuclear weapons stockpile. In the Y–12 SWEIS, NNSA analyzed the potential environmental impacts of ongoing and future operations and activities at Y–12. Five alternatives were analyzed in the Y–12 SWEIS: (1) No Action Alternative (maintain the status quo), (2) UPF Alternative, (3) Upgrade in-Place Alternative (4) Capability-sized UPF Alternative, and (5) No Net Production/Capability-sized UPF Alternative (the environmentally preferable alternative in the 2011 Y–12 SWEIS). In the 2011 ROD, NNSA decided to implement the preferred alternative from the Y–12 SWEIS, the Capability-sized UPF Alternative, and to construct and operate a single-structure Capability-sized UPF at Y–12 as a replacement for certain existing buildings.

In January 2014, as a result of concerns about UPF cost and schedule growth, the Acting Administrator of the NNSA requested that the Director of the Oak Ridge National Laboratory lead a "project peer review" of the UPF. The result of that review, the "Final Report of the Committee to Recommend Alternatives to the Uranium Processing Facility Plan in Meeting the Nation's Enriched Uranium Strategy" (the Red Team Report) was released in April 2014. The Red Team Report emphasized the importance of UPF in the context of a broader set of uranium mission requirements: Sustaining and modernizing EU manufacturing capabilities, reducing material at risk (MAR) in Y–12's EU processing facilities, making investments in enduring buildings, constructing new floor space and enabling transition of critical Building 9212 capabilities into the UPF no later than 2025.

Under the revised strategy that resulted from this review, NNSA would: (1) Construct and operate a new facility (the UPF) consisting of multiple buildings rather than the single-structure UPF facility analyzed in the Y–12 SWEIS, and (2) perform necessary maintenance and upgrades to some existing EU facilities. In the revised UPF design approach, the multiple UPF buildings would each be constructed to safety and security requirements appropriate to the building's function. The revised strategy is described in detail in Chapter 3 of the SA (and referred to, therein, as the proposed action).

NEPA Process for Amending the ROD

The Y–12 SWEIS evaluated the potential impacts of the reasonable range of alternatives for continuing EU processing operations at Y–12 and provided a basis for the 2011 ROD. The Y–12 SWEIS provides much of the basis for this current decision. As discussed in the Summary, NNSA's revised strategy of upgrading existing EU buildings and constructing UPF with multiple buildings is different from the Capability-sized UPF that NNSA selected in the 2011 ROD. Instead, it is a hybrid approach that combines elements of the Upgrade in-Place Alternative and the Capability-sized UPF Alternative, Alternatives (3) and (4).

NNSA prepared an SA (DOE/EIS–0387–SA–01) in accordance with Council on Environmental Quality and DOE regulations implementing NEPA (40 CFR 1502.9(c) and 10 CFR 1021.314(c)) to determine whether the preparation of a new or Supplemental Environmental Impact Statement (EIS) would be required. In preparing the SA, NNSA considered new information relevant to environmental concerns that has emerged since the 2011 Y–12 SWEIS and also examined other ongoing or proposed actions at Y–12 and within the surrounding region of influence to determine whether these presented any potentially significant cumulative impacts.

Summary of Impacts

Section 2.1 of the SA discusses environmental changes at Y–12 and in the surrounding region, which have occurred since publication of the Y–12 SWEIS and that are relevant to the analysis in the SA. Information from the U.S. Geologic Survey (USGS) 2014 *Update of the United States National Seismic Hazard Maps* is included in this section of the SA.

The SA analyzes the potential impacts of the proposed action on land use, aesthetics, climate and air quality, geology and soils, water resources, ecological resources, cultural resources, infrastructure and utilities, socioeconomics, waste management, human health and safety, accidents and intentional destructive acts, transportation, and environmental justice. Section 4.2 of the SA provides: (1) A summary of the potential environmental impacts from the Y–12 SWEIS, (2) the estimate of potential impacts specific to the proposed action, and (3) a more detailed analysis of potential impacts for those NEPA resource areas where NNSA determined that there might be potentially significant new circumstances or information relevant to environmental concerns. Table 4–1 of the SA presents this information in a comparative fashion for each resource area.

As presented in Table 4–1, impacts to climate and air quality, geology and soils, water resources, cultural resources, infrastructure and utilities, socioeconomics, waste management, transportation, and environmental justice would be bounded by the analysis in the Y–12 SWEIS. With respect to ecological resources, since publication of the 2011 Y–12 SWEIS, the northern long-eared bat (*Myotis septentrionalis*) has been listed as threatened by the U.S. Fish and Wildlife Service (USFWS), and Y–12 falls within the range for this species. However, NNSA does not anticipate any significant adverse effects to this special status species. As discussed in the SA, the activities associated with the proposed action would occur on an existing highly industrial site. Also, the potentially impacted habitat for the northern long-eared bat habitat overlaps with that of the Indiana bat and gray bat. Accordingly, NNSA determined that the proposed action described in the SA would not require a revision of the 2011 Y–12 SWEIS Biological Assessment. The USFWS concurs with NNSA's "no effect" determinations for the federally endangered gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalist*), and threatened northern long-eared bat (*Myotis septentrionalis*).

Potential impacts to human health, from either normal EU processing operations or accidents (including intentional destructive acts), would also be bounded by the analysis in the Y–12 SWEIS. Both the 2011 Y–12 SWEIS and the SA evaluated the safety of the continued use of existing facilities and concluded that all radiation doses from normal operations would be below regulatory standards with no statistically significant impact on the health and safety of workers or the public. With regard to seismic risks specifically, both the 2011 Y–12 SWEIS and the SA evaluated the potential impacts of the release of radioactive materials to the environment that could result from severe seismic events. For both the public and workers, less than 1 latent cancer fatality from radiological exposures would be expected for any of the seismic accident scenarios evaluated. Further, the risk[1] assessments for these seismic accident scenarios are bounded by those of other severe accidents for all facilities associated with EU operations at Y–12. This conclusion has not changed as a result of the new USGS seismic map for the eastern Tennessee area. NNSA has taken and will continue to take steps to reduce the MAR administrative limits for existing EU facilities to further reduce the radiological consequences of potential accidents.

Although land disturbance and visual impacts would be slightly greater than the analysis in the Y–12 SWEIS (due to transmission line construction), those impacts would not be significant.

The analysis in the SA indicates that the potential environmental impacts of the NNSA's revised strategy would not be significantly different or significantly greater than those NNSA identified in the Y–12 SWEIS. For the resource areas analyzed, no differences or only minor differences in potential environmental impacts would be expected to result. Detailed descriptions of these differences are presented in Table 4–1 of the SA. After comparing the analysis of potential environmental impacts associated with the proposed actions in the SA to those analyzed in the Y–12 SWEIS, NNSA determined that preparation of a supplemental or new EIS is not warranted.

Based on the analysis in the SA, NNSA's revised strategy is not a substantial change to the proposals covered by the Y–12 SWEIS, nor does it represent significant new circumstances or information relevant to environmental concerns, and is adequately supported by existing NEPA documentation, including the Y–12 SWEIS and additional NEPA analyses (identified in Section 1.4 of the SA) prepared to address specific activities at Y–12. Thus, consistent with 10 CFR 1021.315(e), the existing 2011 ROD for the Y–12 SWEIS can be amended, and no further NEPA documentation is required to implement the proposed action at Y–12.

Environmentally Preferable Alternative

In the 2011 ROD, NNSA designated the No Net Production/Capability-sized UPF Alternative (Alternative 5) as the environmentally preferable alternative. NNSA believes that alternative is still the environmentally preferable alternative.

Amended Decision

NNSA has decided to continue to operate Y–12 to meet the stockpile stewardship mission critical activities assigned to the site. NNSA will meet EU requirements using the proposed action described in Section 3.0 of the SA. That proposed action is a hybrid approach of upgrading existing EU buildings and separating the single-structure UPF into multiple buildings, with each constructed to safety and security requirements appropriate to the building's function.

Basis for Decision

National security policies continue to require NNSA to maintain the nation's nuclear weapons stockpile, as well as its core technical competencies and capabilities. As was the case when NNSA issued its Record of Decision for the Y–12 SWEIS in 2011, NNSA's decisions are based on its mission responsibilities and its need to sustain Y–12's ability to operate in a manner that allows it to fulfill its responsibilities in an environmentally sound, timely, and fiscally prudent manner. NNSA continues to require Y–12 EU processing facilities to provide reliable, long-term enriched uranium processing capability with modern technologies and equipment, improved security posture for Special Nuclear Material; reduced accident risks; improved health and safety for workers and the public; improved operational efficiency; and reduction in the cost of operating and maintaining key facilities.

This amended decision will enable NNSA to maintain the required expertise and capabilities to deliver uranium products while modernizing production facilities. This amended decision will also avoid many of the safety risks of operating aged buildings and equipment by relocating processes that cannot be sustained in existing, enduring buildings. It will also allow NNSA to reduce the risks of EU operations through process improvements enabled by NNSA's investments in developing new technologies to apply in Y–12 facilities. Through an extended life program, mission-critical existing and enduring buildings and infrastructure will be maintained and/or upgraded, further enhancing safety and security at the Y–12 site.

Mitigation Measures

Y–12 will continue to operate in compliance with environmental laws, regulations, policies, and within a framework of contractual requirements. In the 2011 ROD, NNSA adopted the measures identified in the 2011 Y–12 SWEIS, to avoid, minimize and mitigate environmental impacts from the Capability-sized UPF Alternative (Alternative 4). NNSA will continue to impose contractual requirements for actions necessary to comply with the identified mitigation measures.

Additionally, as a result of consultations with the USFWS, NNSA is extending by one month the time frame for tree cutting restrictions, established for the protection of roosting and swarming bats. These contractually required restrictions will now remain in effect annually from March 31st through November 15th.

Issued in Washington, DC, on July 5th, 2016.

Frank G. Klotz,

Under Secretary for Nuclear Security Administrator, National Nuclear Security Administration.

[FR Doc. 2016–16439 Filed 7–11–16; 8:45 am]

BILLING CODE 6450–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2010–000]

Hancock Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Hancock Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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[1] Although "risk" is a term that can be used to express the general concept that an adverse effect could occur, in DOE quantitative assessments it refers to the numeric product of the probability and consequences.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16391 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–1990–000]

North Star Solar PV LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of North Star Solar PV LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16390 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at the Southwest Power Pool Regional State Committee Meeting

The Federal Energy Regulatory Commission hereby gives notice that members of its staff may attend the meeting of the Southwest Power Pool, Inc. Regional State Committee as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

The meeting will be held on July 18, 2016 from 10:00 a.m. to 4:00 p.m. Central Time. The location of the meeting is at the Westin DFW Hotel, 4545 West John Carpenter Freeway, Irving, TX 75063. The hotel phone number is (972) 929–4500.

The discussions may address matters at issue in the following proceedings:

Docket No. ER11–1844, *Midcontinent Independent System Operator, Inc.*
Docket No. EL12–60, *Southwest Power Pool, Inc., et al.*
Docket No. ER12–959, *Southwest Power Pool, Inc.*
Docket No. ER12–1179, *Southwest Power Pool, Inc.*
Docket No. ER12–1586, *Southwest Power Pool, Inc.*
Docket No. EL15–66, *Southern Company Services, et al.* v. *Midcontinent Independent System Operator, Inc.*
Docket No. EL15–77, *Morgan Stanley Capital Group Inc.* v. *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–1183, *Southwestern Electric Power Company*
Docket No. ER14–2445, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–2850, *Southwest Power Pool, Inc.*
Docket No. ER15–1499, *Southwest Power Pool, Inc.*
Docket No. ER15–1775, *Southwest Power Pool, Inc.*
Docket No. ER15–1777, *Southwest Power Pool, Inc.*
Docket No. ER15–1943, *Southwest Power Pool, Inc.*
Docket No. ER15–1976, *Southwest Power Pool, Inc.*
Docket No. ER15–2028, *Southwest Power Pool, Inc.*
Docket No. ER15–2069, *Northwestern Corporation*
Docket No. ER15–2115, *Southwest Power Pool, Inc.*
Docket No. ER15–2265, *Southwest Power Pool, Inc.*
Docket No. ER15–2324, *Southwest Power Pool, Inc.*
Docket No. ER15–2347, *Southwest Power Pool, Inc.*
Docket No. ER15–2351, *Southwest Power Pool, Inc.*
Docket No. ER15–2356, *Southwest Power Pool, Inc.*
Docket No. EC16–53, *South Central MCN, LLC*
Docket No. EL16–20, *Grid Assurance LLC*
Docket No. EL16–70, *Cottonwood Wind Project, LLC* v. *Nebraska Public Power District*
Docket No. ER16–13, *Southwest Power Pool, Inc.*
Docket No. ER16–204, *Southwest Power Pool, Inc.*
Docket No. ER16–209, *Southwest Power Pool, Inc.*

Docket No. ER16–228, *Southwest Power Pool, Inc.*
Docket No. ER16–791, *Southwest Power Pool, Inc.*
Docket No. ER16–829, *Southwest Power Pool, Inc.*
Docket No. ER16–846, *Southwest Power Pool, Inc.*
Docket No. ER16–862, *Southwest Power Pool, Inc.*
Docket No. ER16–863, *Southwest Power Pool, Inc.*
Docket No. ER16–932, *Southwest Power Pool, Inc.*
Docket No. ER16–1086, *Southwest Power Pool, Inc.*
Docket No. ER16–1211, *Midcontinent Independent System Operator, Inc.*
Docket No. ER16–1286, *Southwest Power Pool, Inc.*
Docket No. ER16–1305, *Southwest Power Pool, Inc.*
Docket No. ER16–1351, *Westar Energy, Inc.*
Docket No. ER16–1355, *Westar Energy, Inc.*
Docket No. ER16–1314, *Southwest Power Pool, Inc.*
Docket No. ER16–1341, *Southwest Power Pool, Inc.*
Docket No. ER16–1544, *Southwest Power Pool, Inc.*
Docket No. ER16–1546, *Southwest Power Pool, Inc.*
Docket No. ER16–1605, *Southwestern Electric Power Company*
Docket No. ER16–1618, *Southwest Power Pool, Inc.*
Docket No. ER16–1676, *Southwest Power Pool, Inc.*
Docket No. ER16–1709, *Southwest Power Pool, Inc.*
Docket No. ER16–1710, *Southwest Power Pool, Inc.*
Docket No. ER16–1711, *Southwest Power Pool, Inc.*
Docket No. ER16–1712, *Southwest Power Pool, Inc.*
Docket No. ER16–1713, *Southwest Power Pool, Inc.*
Docket No. ER16–1715, *Southwest Power Pool, Inc.*
Docket No. ER16–1772, *Public Service Company of Colorado*
Docket No. ER16–1774, *Southwest Power Pool, Inc.*
Docket No. ER16–1797, *Midcontinent Independent System Operator, Inc.*
Docket No. ER16–1799, *Southwest Power Pool, Inc.*
Docket No. ER16–1812, *Southwestern Electric Power Company*
Docket No. ER16–1814, *Southwest Power Pool, Inc.*
Docket No. ER16–1826, *Southwest Power Pool, Inc.*
Docket No. ER16–1905, *Southwest Power Pool, Inc.*
Docket No. ER16–1912, *Southwest Power Pool, Inc.*
Docket No. ER16–1945, *Southwest Power Pool, Inc.*
Docket No. ER16–1951, *Southwest Power Pool, Inc.*
Docket No. ER16–1959, *Southwest Power Pool, Inc.*
Docket No. ER16–1989, *Southwest Power Pool, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: July 5, 2016.

Kimberly D. Bose,
Secretary.

[FR Doc. 2016–16395 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3203–004.
Applicants: J. Aron & Company.
Description: Notice of Non-Material Change in Status of J. Aron & Company.
Filed Date: 7/1/16.
Accession Number: 20160701–5346.
Comments Due: 5 p.m. ET 7/22/16.

Docket Numbers: ER16–1649–003.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2016–07–01 Petition for Ltd Waiver to be effective N/A.
Filed Date: 7/1/16.
Accession Number: 20160701–5281.
Comments Due: 5 p.m. ET 7/15/16.

Docket Numbers: ER16–1888–001.
Applicants: Tidal Energy Marketing Inc.
Description: Tariff Amendment: Baseline Amendment to be effective 8/6/2016.
Filed Date: 7/5/16.
Accession Number: 20160705–5165.
Comments Due: 5 p.m. ET 7/19/16.

Docket Numbers: ER16–2133–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) Rate Filing: 2016–07–05_SA 2739 ATC–UPPCo 1st Rev. Project Service Agreement to be effective 9/4/2016.
Filed Date: 7/5/16.
Accession Number: 20160705–5158.
Comments Due: 5 p.m. ET 7/26/16.

Docket Numbers: ER16–2134–000.
Applicants: PJM Interconnection, L.L.C.
Description: Section 205(d) Rate Filing: Service Agreement No. 4489, Queue Position AA1–116/AA1–117 to be effective 6/2/2016.
Filed Date: 7/5/16.
Accession Number: 20160705–5166.
Comments Due: 5 p.m. ET 7/26/16.

Docket Numbers: ER16–2135–000.
Applicants: Terrapin Energy LLC.
Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 9/1/2016.
Filed Date: 7/6/16.
Accession Number: 20160706–5001, 20160706–5092.
Comments Due: 5 p.m. ET 7/27/16.

Docket Numbers: ER16–2136–000.
Applicants: Southwest Power Pool, Inc.
Description: Section 205(d) Rate Filing: 3203 KCP&L GMO and City of Osceola, MO Interconnection Agreement to be effective 7/5/2016.
Filed Date: 7/6/16.
Accession Number: 20160706–5028.
Comments Due: 5 p.m. ET 7/27/16.

Docket Numbers: ER16–2137–000.
Applicants: ISO New England Inc.
Description: ISO New England Inc. Resource Termination—Enerwise Global Technologies, Inc.
Filed Date: 7/1/16.
Accession Number: 20160701–5347.
Comments Due: 5 p.m. ET 7/22/16.

Docket Numbers: ER16–2138–000.
Applicants: AEP Texas North Company.
Description: Section 205(d) Rate Filing: TNC (WTU)—Indian Mesa Power Partners I & II Cancellation to be effective 5/27/2016.
Filed Date: 7/6/16.
Accession Number: 20160706–5035.
Comments Due: 5 p.m. ET 7/27/16.

Docket Numbers: ER16–2139–000.
Applicants: AEP Texas North Company.
Description: Section 205(d) Rate Filing: TNC-Duke Energy Renewables Solar I Interconnection Agreement First Amd & Restate to be effective 6/14/2016.
Filed Date: 7/6/16.
Accession Number: 20160706–5036.
Comments Due: 5 p.m. ET 7/27/16.

Docket Numbers: ER16–2140–000.
Applicants: Arizona Public Service Company.
Description: Section 205(d) Rate Filing: Rate Schedule No. 286—Participant Services Agreement with 4CA to be effective 9/5/2016.
Filed Date: 7/6/16.
Accession Number: 20160706–5061.
Comments Due: 5 p.m. ET 7/27/16.

Docket Numbers: ER16–2141–000.

Applicants: El Paso Electric Company.

Description: Notice of Cancellation of Rate Schedules Nos. 21, 22 and 65 of El Paso Electric Company.

Filed Date: 7/5/16.

Accession Number: 20160705–5210.

Comments Due: 5 p.m. ET 7/26/16.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES16–41–000.

Applicants: Ameren Illinois Company.

Description: Application of Ameren Illinois Company for Authorization under Federal Power Act Section 204.

Filed Date: 7/5/16.

Accession Number: 20160705–5197.

Comments Due: 5 p.m. ET 7/26/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16388 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2135–000]

Terrapin Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Terrapin Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16394 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2019–000]

Five Points Solar Park LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Five Points Solar Park LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16392 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14725–000]

HY Power Energy Company; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On November 2, 2015, HY Power Energy Company filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Inglis Lock By-pass Dam Water Power Project (Inglis By-pass Project or project) to be located at the existing U.S. Army Corps of Engineers' Inglis Dam on the Withlacoochee River in Levy County, Florida. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 60-foot-long, 98-foot-wide intake channel; (2) a 115-foot-long, 28-foot-wide powerhouse containing one generating unit with a total capacity of 2.8 megawatts; (3) a 10-foot-long, 20-foot-wide control building; (4) a 25-foot-long, 25-foot-wide substation adjacent to the control building; (5) a 300-foot-long, 12.47kV transmission line. The proposed project would have an estimated average annual generation of 16,200 megawatt-hours, and operate as directed by the Corps.

Applicant Contact: Mr. Robert Karow, HY Power Energy Company, 5218 SW 34th Street, Gainesville, FL 32608; telephone (352) 336–4727.

FERC Contact: Chris Casey; phone: (202) 502–8577.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14725–000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14725) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: July 6, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16398 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–2035–000]

Black Oak Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Black Oak Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2016.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16393 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL16–79–000; EL16–80–000; EL16–81–000; EL16–82–000; EL16–83–000]

Armstrong Power, LLC; Calumet Energy Team, LLC; Northeastern Power Company; Pleasants Energy, LLC; Troy Energy, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On July 5, 2016, the Commission issued an order in Docket Nos. EL16–

79–000, EL16–80–000, EL16–81–000, EL16–82–000, and EL16–83–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Armstrong Power, LLC's, Calumet Energy Team, LLC's, Northeastern Power Company's, Pleasants Energy, LLC's, and Troy Energy, LLC's reactive power rates. *Armstrong Power, LLC et. al.*, 156 FERC ¶ 61,009 (2016).

The refund effective date in Docket No. EL16–79–000, et al., established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16389 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–125–000.
Applicants: BNB Lamesa Solar LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of BNB Lamesa Solar LLC.
Filed Date: 6/30/16.
Accession Number: 20160630–5447.
Comments Due: 5 p.m. ET 7/21/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2042–021; ER10–1941–008; ER10–1938–016; ER13–1407–005; ER10–1934–015; ER10–1893–015; ER10–2985–019; ER10–3049–020; ER10–3051–020; ER10–1888–008; ER10–1885–008; ER10–1884–008; ER10–1883–008; ER10–1878–008; ER10–1876–008; ER10–1875–008; ER10–1873–008; ER12–1987–006; ER10–1947–008; ER10–1864–007; ER10–1862–015; ER12–2261–006; ER10–1865–008.
Applicants: Calpine Energy Services, L.P., Calpine Gilroy Cogen, L.P., Calpine Power America—CA, LLC, CCFC Sutter Energy, LLC, CES Marketing IX, LLC, CES Marketing X, LLC, Champion Energy Marketing LLC, Champion Energy Services, LLC, Champion Energy, LLC, Creed Energy Center, LLC, Delta Energy Center, LLC, Geysers Power Company, LLC, Gilroy Energy Center, LLC, Goose Haven Energy Center, LLC, Los Esteros Critical Energy Facility, LLC, Los Medanos Energy Center, LLC, Metcalf Energy Center, LLC, O.L.S. Energy-Agnews, Inc., Otay Mesa Energy Center, LLC, Pastoria Energy Center, LLC, Power Contract Financing, L.L.C., Russell City Energy Company, LLC, South Point Energy Center, LLC.
Description: Updated Market Power Analysis for the Southwest Region of the Calpine MBR Sellers.
Filed Date: 6/30/16.
Accession Number: 20160630–5444.
Comments Due: 5 p.m. ET 8/29/16.

Docket Numbers: ER10–3115–004; ER10–3117–006; ER10–3300–011; ER11–4060–007; ER11–4061–007; ER13–445–007; ER14–2823–005; ER15–1170–003; ER15–1171–003; ER15–1172–003; ER15–1173–003.
Applicants: Lea Power Partners, LLC, Waterside Power, LLC, Badger Creek Limited, Double C Generation Limited Partnership, High Sierra Limited, Kern Front Limited, Bear Mountain Limited, Chalk Cliff Limited, Live Oak Limited, McKittrick Limited, La Paloma Generating Company, LLC.
Description: Supplement to April 21, 2016 Notice of Change in Status Lea Power Partners, LLC, et al.
Filed Date: 6/30/16.
Accession Number: 20160630–5442.
Comments Due: 5 p.m. ET 7/21/16.

Docket Numbers: ER15–1883–003; ER15–1418–003; ER16–632–001; ER16–91–003; ER10–1847–009; ER10–1856–009; ER10–1890–009; ER11–2160–009; ER10–1906–008; ER13–2112–005; ER16–90–003; ER15–2477–003; ER11–3635–008; ER10–2348–008; ER10–1962–009; ER15–1375–003; ER11–4677–010; ER12–2444–009; ER12–676–008; ER11–2192–010; ER15–1016–003; ER10–1989–009; ER11–4678–010; ER12–631–010; ER10–1971–028; ER11–4462–019.
Applicants: Adelanto Solar, LLC, Adelanto Solar II, LLC, Blythe Solar II, LLC, Blythe Solar 110, LLC, Diablo Winds, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Montezuma Wind, LLC, FPL Energy New Mexico Wind, LLC, Genesis Solar, LLC, Golden Hills Interconnection, LLC, Golden Hills Wind, LLC, Hatch Solar Energy Center I, LLC, High Lonesome Mesa, LLC, High Winds, LLC, McCoy Solar, LLC, NextEra Energy Montezuma II Wind, LLC, North Sky River Energy, LLC, Perrin Ranch Wind, LLC, Red Mesa Wind, LLC, Shafter Solar, LLC, Sky River LLC, Vasco Winds, LLC, Windpower Partners 1993, LLC, NextEra Energy Power Marketing, LLC, NEPM II, LLC.
Description: Triennial Market Power Update for the Southwest region of the NextEra Companies.
Filed Date: 6/30/16.
Accession Number: 20160630–5451.
Comments Due: 5 p.m. ET 8/29/16.

Docket Numbers: ER16–38–002; ER16–39–002.
Applicants: Kingbird Solar A, LLC, Kingbird Solar B, LLC.
Description: Notice of Non-Material Change in Circumstances and Limited Request for Privileged Treatment of Kingbird Solar A, LLC, et al.
Filed Date: 6/30/16.
Accession Number: 20160630–5445.
Comments Due: 5 p.m. ET 7/21/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–16387 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC16–12–000]

Commission Information Collection Activities (FERC–511, FERC–515, and FERC–574); Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden of the information collections described below.

DATES: Comments on the collections of information are due September 12, 2016.

ADDRESSES: You may submit comments (identified by Docket No. IC16–12–000) by either of the following methods:

- *eFiling at Commission's Web site: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier*: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Please reference the specific collection number and/or title in your comments.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov*, telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Type of Request: Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost [1] of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC–511, Transfer of Electric License

OMB Control No.: 1902–0069.

Type of Request: Three-year extension of the FERC–511 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information collected under the requirements of FERC–511 to implement the statutory provisions of Sections 4(e) and 8 of the Federal Power Act (FPA).[2] Section 4(e) authorizes the Commission to issue licenses for the construction, operation and maintenance of reservoirs, powerhouses, and transmission lines or other facilities necessary for the development and improvement of navigation and for the development, transmission, and utilization of power.[3] Section 8 of the FPA provides that the voluntary transfer of any license is made only with the written approval of the Commission. Any successor to the licensee may assign the rights of the original licensee but is subject to all of the conditions of the license. The information filed with the Commission is a mandatory requirement contained in the format of a written application for transfer of license, executed jointly by the parties of the proposed transfer. The sale or merger of a licensed hydroelectric project may occasion the transfer of a license. The Commission's staff uses the information collection to determine the qualifications of the proposed transferee to hold the license and to prepare the transfer of the license order. Approval by the Commission of transfer of a license is contingent upon the transfer of title to the properties under license, delivery of all license instruments, and evidence that such transfer is in the public interest. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 9.

Type of Respondents: Hydropower Project Licensees.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–511—Transfer of Electric License

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours & cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent (5)÷(1)
Hydropower Project Licensees	46	1	46	40 hrs.; $2,980	1,840 hrs.; $137,080	$2,980

FERC–515, Rules of Practice and Procedure: Declaration of Intention

OMB Control No.: 1902–0079.

Type of Request: Three-year extension of the FERC–515 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information collected under the requirements of FERC–515 to implement the statutory provisions of section 23(b) of the Federal Power Act (FPA).[4] Section 23(b) authorizes the Commission to make a determination as to whether it has jurisdiction over a proposed water project [5] not affecting navigable waters [6] but across, along, over, or in waters over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States. Section

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[1] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

For the FERC–511, FERC–515, and FERC–574, the Commission staff believes that industry is similarly situated to FERC in terms of average wages and benefits. For the hourly burden cost, we are using the FERC 2016 average cost (wages plus benefits) of $74.50/hour.

[2] 16 U.S.C. 797(e) and 801.

[3] Refers to facilities across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of public lands and reservations of the United States, or for the purpose of utilizing the surplus water or water power from any Government dam.

[4] 16 U.S.C. 817.

[5] Dams or other project works. (See 16 U.S.C. 817.)

[6] See 16 U.S.C. 796(8) for the definition of "Navigable Waters."

23(b) requires that any person intending to construct project works on such waters must file a declaration of their intention with the Commission. If the Commission finds the proposed project will have an impact on interstate or foreign commerce, then the entity intending to construct the project must obtain a Commission license or exemption before starting construction.[7] The information is collected in the form of a written application, containing sufficient details to allow the Commission staff to research the jurisdictional aspects of the project. This research includes examining maps and land ownership records to establish whether or not there is Federal jurisdiction over the lands and waters affected by the project. A finding of non-jurisdictional by the Commission eliminates a substantial paperwork burden for the applicant who might otherwise have to file for a license or exemption application. The Commission implements these filing requirements under 18 CFR part 24.

Type of Respondents: Persons intending to construct project works on certain waters described above.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–515—RULES OF PRACTICE AND PROCEDURE: DECLARATION OF INTENTION

Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours & cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
6	1	6	80 hrs.; $5,960	480 hrs.; $35,760	$5,960

FERC–574, Gas Pipeline Certificates: Hinshaw Exemption

OMB Control No.: 1902–0116.

Type of Request: Three-year extension of the FERC–574 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information collected under the requirements of FERC–574 to implement the statutory provisions of sections 1(c), 4 and 7 of the Natural Gas Act (NGA).[8] Natural gas pipeline companies file applications with the Commission furnishing information in order to facilitate a determination of an applicant's qualification for an exemption under the provisions of the section 1(c). If the Commission grants exemption, the natural gas pipeline company is not required to file certificate applications, rate schedules, or any other applications or forms prescribed by the Commission.

The exemption applies to companies engaged in the transportation, sale, or resale of natural gas in interstate commerce if: (a) They receive gas at or within the boundaries of the state from another person at or within the boundaries of that state; (b) such gas is ultimately consumed in such state; (c) the rates, service and facilities of such company are subject to regulation by a State Commission; and (d) that such State Commission is exercising that jurisdiction. 18 CFR part 152 specifies the data required to be filed by pipeline companies for an exemption.

Type of Respondents: Pipeline companies.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–574—GAS PIPELINE CERTIFICATES: HINSHAW EXEMPTION

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Pipeline Companies	1	1	1	60 hrs.; $4,470	60 hrs.; $4,470	$4,470

Dated: July 5, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16397 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1256–031]

Loup River Public Power District; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Loup River Hydroelectric Project (FERC Project No. 1256), located on the Loup River in Nance and Platte Counties, Nebraska, and prepared a final environmental assessment (EA).

In the final EA, Commission staff analyzes the potential environmental effects of licensing the project, and concludes that issuing a new license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

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[7] Upon a finding of non-jurisdictional by the Commission, and if the project does not utilize surplus water or waterpower from a government dam and no public lands or reservations are affected, permission is granted upon compliance with State laws.

[8] 15 U.S.C. 717–717w.

A copy of the final EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *www.ferc.gov* using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, please contact Chelsea Hudock at (202) 502–8448 or by email at *chelsea.hudock@ferc.gov* or Lee Emery by telephone at (202) 502–8379 or by email at *lee.emery@ferc.gov.*

Dated: July 5, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–16396 Filed 7–11–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0024; FRL–9948–32]

Certain New Chemicals; Receipt and Status Information for May 2016

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from May 2, 2016 to May 31, 2016.

DATES: Comments identified by the specific case number provided in this document, must be received on or before August 11, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0024, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Rahai, IMD (7407M) Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the actions addressed in this document.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the agency taking?

This document provides receipt and status reports, which cover the period from May 2, 2016 to May 31, 2016, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Under TSCA, 15 U.S.C. 2601 *et seq.,* EPA classifies a chemical substance as either an "existing" chemical or a "new" chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a "new chemical," while those that are on the TSCA Inventory are classified as an "existing chemical." For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.*

Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for "test marketing" purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic reports on the status of new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

For the 66 PMNs received by EPA during this period, Table 1 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer/importer; the potential uses identified by the manufacturer/importer in the PMN; and the chemical identity.

TABLE 1—PMNS RECEIVED FROM MAY 2, 2016 TO MAY 31, 2016

Case No.	Date received	Projected end date for EPA review	Manufacturer/ Importer	Use(s)	Chemical identity
P–16–0387	5/31/2016	8/29/2016	CBI	(G) Additives for polymers.	(G) Aliphatic polycarboxylic acid, polymer with alicyclic polyhydric alcohol and polyoxyalkylene.
P–16–0393	5/31/2016	8/29/2016	CBI	(S) Plasticizer for use with polymers.	(G) Di-substituted benzenedicarboxylic acid ester.
P–16–0102	5/13/2016	8/11/2016	CBI	(G) Ink component	(G) Polyester acrylate.
P–16–0102	5/13/2016	8/11/2016	CBI	(G) Coating component.	(G) Polyester acrylate.
P–16–0102	5/13/2016	8/11/2016	CBI	(G) Adhesive component.	(G) Polyester acrylate.
P–16–0205	5/17/2016	8/15/2016	CBI	(S) General industrial oil.	(G) Amide.
P–16–0205	5/17/2016	8/15/2016	CBI	(S) Hydraulic oil	(G) Amide.
P–16–0205	5/17/2016	8/15/2016	CBI	(G) Lubricant oil	(G) Amide.
P–16–0271	5/20/2016	8/18/2016	CBI	(S) Flexible pvc plasticizer for wire insulation.	(S) 1,2,4-benzenetricarboxylic acid, 1,2,4-trinonyl ester.
P–16–0282	5/10/2016	8/8/2016	CBI	(S) Paint dryier	(G) Manganese complexes.
P–16–0323	5/17/2016	8/15/2016	Allnex USA, Inc	(G) Coating resin	(G) Formaldehyde, reaction products with substituted carbomonocycle-substituted heteromonocycle-alkylene glycol bis [[[substituted(oxoneoalky)oxy]alkyl]amino]alky] ether polymer and alkyl substituted alkanediamine, acetate (salts).
P–16–0348	5/7/2016	8/5/2016	CBI	(G) Industrial lubricant.	(G) Polypentaerythritol, mixed esters with linear and branched monoacids.
P–16–0349	5/11/2016	8/9/2016	CBI	(G) Fuel additive	(G) Quaternary ammonium salt of polyisobutene succinic acid.
P–16–0350	5/2/2016	7/31/2016	CBI	(G) Polymer reactant.	(G) Polyaralkyl aryl ester of methacrylic acid.
P–16–0351	5/2/2016	7/31/2016	Solazyme, Inc	(G) Renewable oil source for fuels.	(G) Glycerides, c14–18 and c16-c18 unsaturated, from fermentation.
P–16–0351	5/2/2016	7/31/2016	Solazyme, Inc	(G) Feedstock for oleochemical industry.	(G) Glycerides, c14–18 and c16-c18 unsaturated, from fermentation.
P–16–0353	5/4/2016	8/2/2016	Gantrade Corp.	(S) Chain extender and curative for use in polymer manufacturing.	(S) Benzenamine, 4-[(4-amino-3-chlorophenyl)methyl]-2-ethyl-.
P–16–0354	5/5/2016	8/3/2016	CBI	(G) Intermediate	(G) Esteramine.
P–16–0355	5/5/2016	8/3/2016	CBI	(G) Intermediate	(G) Esteramine.
P–16–0356	5/5/2016	8/3/2016	CBI	(G) Wellbore additive.	(G) Quaternary ammonium salts.
P–16–0357	5/5/2016	8/3/2016	CBI	(G) Wellbore additive.	(G) Quaternary ammonium salts.
P–16–0358	5/5/2016	8/3/2016	CBI	(S) Intermediate for further polymer reaction.	(G) Alkylphenol.
P–16–0359	5/5/2016	8/3/2016	Dic International, USA, LLC.	(G) Pigment additive for industrial coatings.	(G) Carbopolycycle-bis(diazonium), dihalo-, chloride (1:2), reaction products with metal hydroxide, 4-[(dioxoalkyl)amino]substituted benzene, 2-[(dioxoalkyl)amino]substituted benzene, 5-[(dioxoalkyl)amino]-2-hydroxy-substituted benzene and oxo-n-phenylalkanamide.

TABLE 1—PMNS RECEIVED FROM MAY 2, 2016 TO MAY 31, 2016—Continued

Case No.	Date received	Projected end date for EPA review	Manufacturer/ Importer	Use(s)	Chemical identity
P–16–0359	5/5/2016	8/3/2016	Dic International USA, LLC.	(G) Pigment additives for industrial coatings.	(G) Carbopolycycle-bis(diazonium), dihalo-, chloride (1:2), reaction products with metal hydroxide, 4-[(dioxoalkyl)amino]substituted benzene, 2-[(dioxoalkyl)amino]substituted benzene, 5-[(dioxoalkyl)amino]-2-hydroxy-substituted benzene and oxo-n-phenylalkanamide.
P–16–0360	5/6/2016	8/4/2016	Oleon Americas, Inc	(G) Fuel additive	(S) Poly (oxy-1,2-ethanediyl), alpha- (1-oxodocosyl)- omega- [(1-oxodocosyl)oxy]-.
P–16–0361	5/12/2016	8/10/2016	American Process, Inc.	(G) Plastic reinforcement.	(S) Pulp, cellulose, reaction products with lignin [nanocrystals].
P–16–0361	5/12/2016	8/10/2016	American Process, Inc.	(G) Binders	(S) Pulp, cellulose, reaction products with lignin [nanocrystals].
P–16–0361	5/12/2016	8/10/2016	American Process, Inc.	(G) Viscosifying agent.	(S) Pulp, cellulose, reaction products with lignin [nanocrystals].
P–16–0362	5/12/2016	8/10/2016	American Process, Inc.	(G) Binders	(S) Pulp, cellulose, reaction products with lignin [nanofibrils].
P–16–0362	5/12/2016	8/10/2016	American Process, Inc.	(G) Plastic reinforcement.	(S) Pulp, cellulose, reaction products with lignin [nanofibrils].
P–16–0362	5/12/2016	8/10/2016	American Process, Inc.	(G) Viscosifying agent.	(S) Pulp, cellulose, reaction products with lignin [nanofibrils].
P–16–0363	5/10/2016	8/8/2016	CBI	(G) Open, non-dispersive.	(G) Blocked polyester polyurethane, neutralized.
P–16–0364	5/10/2016	8/8/2016	CBI	(G) Intermediate used completely on site.	(G) Nitrile-butadiene-acrylate terpolymers.
P–16–0365	5/16/2016	8/14/2016	Allnex USA, Inc	(S) Ultra violet curable coating resin.	(G) Alkyl carbonate, polymer with, substituted alkanes and substituted heteromonocycle, substituted alkyl acrylate-blocked.
P–16–0366	5/11/2016	8/9/2016	CBI	(G) Open, non-dispersive.	(G) Blocked polyisocyanate.
P–16–0367	5/20/2016	8/18/2016	Allnex USA, Inc	(S) Ultra violet curable coating resin.	(G) Substituted heteromonocylce, polymer with substituted alkane and ethoxylated alkaneâ¿ã¿â¿ã¿â¢ã¿â¿ã¿â¿ã¿â¿ã¿â¿ã¿â¿, substituted hetero monocycle substituted â¿ã¿â¿ã¿â¢ã¿â¿ã¿â¿ã¿â¿ã¿â¿â¿ã¿â¿alkyl ester-â¿ã¿â¿ã¿â¢ã¿â¿ã¿â¿ã¿â¿ã¿â¿â¿blocked.
P–16–0368	5/13/2016	8/11/2016	CBI	(S) Adhesive coating for carpet backing.	(G) Aromatic dicarboxylic acid, polymer with adipic acid and alkanediol.
P–16–0369	5/13/2016	8/11/2016	Allnex USA, Inc	(S) Ultra violet curable coating resin.	(G) Substituted heteromonocycle, telomer with substituted carbomonocycles, substituted alkyl ester.
P–16–0370	5/13/2016	8/11/2016	CBI	(G) Crosslinker for adhesives and coatings.	(G) Polysiloxane with functional groups.
P–16–0371	5/13/2016	8/11/2016	CBI	(G) Wetting and dispersing additive.	(G) Polyphosphoric acids polyether polyethene alkyl alkyl.
P–16–0372	5/13/2016	8/11/2016	CBI	(G) Wetting and dispersing additive.	(G) Polyphosphoric acids polyether alkyl polyethylene polymer.
P–16–0373	5/13/2016	8/11/2016	CBI	(S) Ultra violet absorber for plastic articles.	(G) Tris(alkyloxyphenyl)triazine compounds.
P–16–0374	5/17/2016	8/15/2016	CBI	(G) Oil additive	(G) Metal branched alkyl substituted carbomonocycle complexes with substituted alkyl carbomonocycle.
P–16–0375	5/19/2016	8/17/2016	CBI	(G) Binder for seal application.	(G) Alkyl methacrylates, polymer with olefines.
P–16–0376	5/18/2016	8/16/2016	CBI	(G) Photolithography	(G) Hydroxystyrene resin.
P–16–0377	5/17/2016	8/15/2016	CBI	(G) Film component	(G) Polyester polyol.
P–16–0378	5/17/2016	8/15/2016	CBI	(G) Film component	(G) Polyester polyol.
P–16–0379	5/18/2016	8/16/2016	CBI	(G) Intermediate for polymer synthesis.	(G) Vinyl functional polymethylalkylpolymer.

TABLE 1—PMNS RECEIVED FROM MAY 2, 2016 TO MAY 31, 2016—Continued

Case No.	Date received	Projected end date for EPA review	Manufacturer/ Importer	Use(s)	Chemical identity
P–16–0380	5/18/2016	8/16/2016	CBI	(G) Component of electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts).
P–16–0381	5/18/2016	8/16/2016	CBI	(G) Component of electrocoat resin.	(G) Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts).
P–16–0381	5/18/2016	8/16/2016	CBI	(S) Anti-crater additive for automotive electrocoat resin.	(G) Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts).
P–16–0382	5/18/2016	8/16/2016	CBI	(G) Component of electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts).
P–16–0382	5/18/2016	8/16/2016	CBI	(S) Anti-crater additive for automotive electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts).
P–16–0383	5/18/2016	8/16/2016	CBI	(S) Anti-crater additive for automotive electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts).
P–16–0383	5/18/2016	8/16/2016	CBI	(G) Component in electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products acetates (salts).

TABLE 1—PMNS RECEIVED FROM MAY 2, 2016 TO MAY 31, 2016—Continued

Case No.	Date received	Projected end date for EPA review	Manufacturer/ Importer	Use(s)	Chemical identity
P–16–0384	5/18/2016	8/16/2016	CBI	(G) Component of an electrocoat resin.	(G) Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts).
P–16–0384	5/18/2016	8/16/2016	CBI	(S) Anti-crater additive for automotive electrocoat resin.	(G) Propanoic acid, 2-hydroxy-, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products formates (salts).
P–16–0385	5/18/2016	8/16/2016	CBI	(G) Component of electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts).
P–16–0385	5/18/2016	8/16/2016	CBI	(S) Anti-crater additive for automotive electrocoat resin.	(G) Formic acid, compds. with hydrolyzed bisphenol a-epichlorohydrin-polyethylene glycol ether with bisphenol a (2:1) polymer-n1-(1,3-dimethylbutylidene)-n2-[2-[(1, 3-dimethylbutylidene)amino]ethyl]-1,2-ethanediamine-dialdehyde-2-(methylamino)ethanol reaction products sulfamates (salts).
P–16–0386	5/20/2016	8/18/2016	CBI	(S) Additive for motor oil formulations and gear oil lubricants.	(S) Hexanedioic acid, 1,6-bis(3,5,5-trimethylhexyl) ester.
P–16–0388	5/20/2016	8/18/2016	CBI	(G) Hardener for epoxy coating.	(G) Aliphatic polyamines, polymers with bisphenol a and epichlorohydrin.
P–16–0389	5/23/2016	8/21/2016	CBI	(G) Oil & gas extraction.	(G) Polymer of substituted acrylic acid, mercaptoethanol and bromohexane.
P–16–0390	5/27/2016	8/25/2016	CBI	(S) Coating resin used in anti-fogging clear coat applied to automotive parts.	(G) Alkyl alkenoic acid alkyl ester polymer with alkyl alkenoate, dialkyl alkenamide, hydroxy-modified alkenoic acid derivative, and sulfonic-modified alkenoic acid derivative.
P–16–0391	5/23/2016	8/21/2016	CBI	(G) Stabilizer	(G) Polyester polyol polymer with aliphatic isocyanate and phenol derivates.
P–16–0392	5/25/2016	8/23/2016	CBI	(G) Wax	(G) Modified vegetable oil.
P–16–0394	5/31/2016	8/29/2016	CBI	(G) Adhesive	(G) Benzenedicarboxylic acid, polymer with decanedioic acid and dodecanedioic acid, ethanediol, hexanedioic acid, hexanediol, alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], isobenzofurandione,1,1'-methylenebis[4-isocyanatobenzene], phenol and trimethylbicyclo hept-2-ene.

For the 28 NOCs received by EPA during this period, Table 3 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the NOC; the date the NOC was received by EPA; the projected date of commencement provided by the submitter in the NOC; and the chemical identity.

TABLE 2—NOCS RECEIVED FROM MAY 2, 2016 TO MAY 31, 2016

Case No.	Date received	Projected end date of commencement	Chemical identity
P–89–1056	5/9/2016	8/31/2005	(G) Polyurethane.
P–92–0303	5/6/2016	6/23/1992	(S) Phenol, 2,4,6-tris[(dimethylamino)methyl]-, reaction products with benzyl chloride.
P–99–0096	5/6/2016	5/4/2016	(G) Amine-modified polyether acrylate.
P–13–0916	5/10/2016	4/17/2016	(G) Polyurethane.
P–14–0076	5/5/2016	11/18/2014	(G) Synthetic polyol esters.
P–14–0078	5/5/2016	9/11/2014	(G) Synthetic polyol ester.
P–14–0079	5/5/2016	6/26/2014	(G) Synthetic polyol esters.
P–14–0711	5/10/2016	5/3/2016	(G) Polyurethane.
P–14–0855	5/10/2016	4/18/2016	(G) Polyurethane.
P–14–0856	5/10/2016	4/18/2016	(G) Polyurethane.
P–14–0857	5/10/2016	4/18/2016	(G) Polyurethane.
P–14–0858	5/10/2016	4/18/2016	(G) Polyurethane.
P–15–0120	5/11/2016	2/24/2016	(G) Substituted benzyl acrylate.
P–15–0276	5/23/2016	5/2/2016	(G) Functionalized carbon nanotubes.
P–15–0303	5/19/2016	5/17/2016	(S) Cellulose, carboxymethyl ether, sodium salt, polymer with bis(isocyanatomethyl)benzene, 2,2-dimethoxyacetaldehyde, ethanedial, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 2-oxoacetic acid, 1h-1,2,4-triazole-3,5-diamine and 1,3,5-triazine-2,4,6-triamine.
P–15–0747	5/26/2016	5/13/2016	(G) Naturally-occurring minerals, reaction products with boron sodium oxide (b4na2o7), hetero substituted alkyl acrylate polymer, kaolin and sodium silicate.
P–16–0056	5/26/2016	5/5/2016	(G) Dialkyl fattyalkylamino propanamide alkylamine acetates.
P–16–0124	5/13/2016	5/1/2016	(G) Substituted alkanoic acid-, salts with substituted alkanol-blocked haloalkyl heteromonocycle substituted carbomonocycle polymer alkyl alkanoate substituted carbomonocycle-trialkylcarbomonocycle-alkyl imine reaction products.
P–16–0126	5/13/2016	5/1/2016	(G) Substituted carbomonocycle, polymer with substituted heteromonocycle, reaction products with substituted amine, substituted amine and substituted alkanol, alkylalkanoates substituted carbomonocycle.
P–16–0135	5/2/2016	4/14/2016	(G) Polyesters, fatty alkyl amindes terminated.
P–16–0141	5/4/2016	5/1/2016	(G) Polyalkyl methacrylate copolymer.
P–16–0190	5/20/2016	4/25/2016	(G) Aryl polyolefin.
P–16–0210	5/23/2016	5/11/2016	(G) Alkanepolycarboxylic acids, polymer with alkanepolyols, benzenedicarboxylic acid, methylenebis[isocyantobenzene], mono- and polyether polyols, benzenedicarboxylic acid derivative and caprolactone.
P–16–0210	5/23/2016	5/12/2016	(G) Alkanepolycarboxylic acids, polymer with alkanepolyols, benzenedicarboxylic acid, methylenebis[isocyantobenzene], mono- and polyether polyols, benzenedicarboxylic acid derivative and caprolactone.
P–16–0211	5/23/2016	5/13/2016	(G) Polymer of alkyl acrylate, caprolactone, methylenebis[isocyanatobenzene], alkyl methacrylates, polyether polyol, alkanepolycarboxylic acid, substituted methacrylate and alkanepolyol.
P–16–0212	5/23/2016	5/17/2016	(G) Polymer of alkanepolyols, methylenebis[isocyantobenzene], polyether polyol, alkyl methacrylates and acrylate, methacrylic acid, substitued methacrylic acid and alkanepolycarboxylic acid.
P–16–0213	5/23/2016	5/10/2016	(G) Polymer of substituted benzenes, alkanepolyols, alkanepolycarboxylic acids, methylenebis[isocyanatobenzene], polyether polyol, neopentyl glycol and a substituted glycol.
P–16–0214	5/23/2016	5/10/2016	(G) Polyether polyols, polymers with substituted benzenes, methylenebis[isocyanatobenzene], alkanepolyols, caprolactone and a substituted glycol.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: July 5, 2016.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2016–16448 Filed 7–11–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0345; FRL–9948–04]

Pesticide Maintenance Fee: Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before January 9, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0345, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: Michael Yanchulis.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael Yanchulis, Information Technology and Resources Managment Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0237; email address: *yanchulis.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 277 pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Chemical name
100–1004	100	Demon EC Insecticide	Cypermethrin.
100–1006	100	Probuild TC Termiticide	Cypermethrin.
100–1051	100	Talon-G Rodenticide Bait Pack Pellets with Bitrex.	Brodifacoum.
100–1057	100	Talon-G Rodenticide Mini-Pellets with Bitrex	Brodifacoum.
100–1170	100	Optigard ZT Insecticide	Thiamethoxam.
100–1209	100	Abamectin Granular Fire Ant Killer	Abamectin.
100–1249	100	Adage—Maxim 4FS Twinpak	Fludioxonil; Thiamethoxam.
100–1302	100	Cypermethrin ME 2.0% Concentrate	Cypermethrin.
100–1303	100	Cypermethrin ME 0.2% RTU	Cypermethrin.
100–1393	100	Hurricane WDG	Metalaxyl-M; Fludioxonil.
100–1512	100	Econem	Pasteuria Usgae—BL1.
228–380	228	Riverdale 565 Selective Herbicide	Cloransulam-methyl.
264–652	264	Rely Herbicide	Glufosinate.
264–663	264	Remove Herbicide	Glufosinate.
264–932	264	Gustafson Lorsban 30 Flowable	Chlorpyrifos.
432–887	432	Chipco Ronstar 50 WP	Oxadiazon.
432–891	432	Chipco 26019 WDG Fungicide	Iprodione.
432–894	432	Chipco Aliette WSP Brand Fungicide	Fosetyl-Al.
432–898	432	Chipco Ronstar G T/L Herbicide	Oxadiazon.
432–1222	432	Prostar 50WP	Flutolanil.
432–1326	432	Dylox 80 SP Nursery Insecticide	Trichlorfon.
432–1336	432	Bayleton 1% Granular Turf and Sod Production Fungicide.	Triadimefon.
432–1340	432	Merit 0.3 G Lawn and Garden Insecticide	Imidacloprid.
432–1341	432	Merit 0.15 G Lawn and Garden Insecticide	Imidacloprid.
432–1342	432	Merit 0.25 G Lawn and Garden Insecticide	Imidacloprid.
432–1343	432	Merit 0.35 G Lawn and Garden Insecticide	Imidacloprid.
432–1420	432	Topchoice Select Insecticide	Fipronil.
432–1423	432	Topchoice 0.0143 Plus Turf Fertilizer Insecticide	Fipronil.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Chemical name
432–1425	432	Topchoice 0.00953 Plus Turf Fertilizer Insecticide.	Fipronil.
432–1432	432	Compass G Fungicide	Trifloxystrobin.
432–4877	432	Triticonazole 70 WDG Fungicide	Triticonazole.
498–195	498	Champion Spray on Fire Ant Killer Dust	Deltamethrin.
498–197	498	Spray Disinfectant	Quaternary ammonium compounds; Ethanol.
499–497	499	Whitmire Micro-Gen TC 232	D-Limonene.
499–519	499	TC 232 W&HH	D-Limonene.
499–20204	499	Babolna Insect Attractant Trap	2-Cyclopenten-1-one, 2-hydroxy-3-methyl-.
524–314	524	Lasso Herbicide	Alachlor.
524–316	524	Lasso 94% Stabilized Technical	Alachlor.
524–329	524	Lariat Herbicide	Atrazine; Alachlor.
524–344	524	Micro-Tech Herbicide	Alachlor.
524–418	524	Bullet Herbicide	Atrazine; Alachlor.
524–523	524	MON 78746 Herbicide	Quizalofop-p-ethyl; Glyphosate-isopropylammonium.
1448–172	1448	M–5–2	2-(Thiocyanomethylthio)benzothiazole; Methylene bis(thiocyanate).
1677–196	1677	Eco 2000–XP Freshbait	Boric acid.
1677–205	1677	A–215	Glutaraldehyde.
1677–206	1677	A–245	Glutaraldehyde.
1839–49	1839	CD 3.2 Detergent/Disinfectant	Quaternary ammonium compounds.
1839–50	1839	CD 1.6 Detergent/Disinfectant	Quaternary ammonium compounds.
1839–85	1839	Aerosol Surface Disinfectant	Quaternary ammonium compounds; Isopropyl alcohol.
1839–102	1839	CD 4.5 (D & F)	Quaternary ammonium compounds.
1839–128	1839	BTC 99	Quaternary ammonium compounds.
1839–138	1839	10% BTC 99 Industrial Water Cooling Tower Algaecide.	Quaternary ammonium compounds.
1839–188	1839	Aerosol SDAS	Quaternary ammonium compounds; Triethylene glycol; Isopropyl alcohol.
3525–71	3525	Utikem Black Algae Killer	Busan 77.
3525–91	3525	Coastal Mint Disinfectant	Quaternary ammonium compounds.
3525–96	3525	Jolt Pool Shock Treatment for Control of Algae	Lithium hypochlorite.
3525–109	3525	Algaecide & Pool Conditioner	Busan 77.
4822–554	4822	AD–SS–06	Quaternary ammonium compounds.
5383–176	5383	Fungitrol 400SE Fungicide	Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
5383–188	5383	Nuosept 515RX Preservative	2-Methyl-3(2H)-isothiazolone; 5-Chloro-2-methyl-3(2H)-isothiazolone.
5383–189	5383	Nuosept 220 Preservative	2,2-Dibromo-3-nitrilopropionamide.
5813–28	5813	Pine-Sol	Pine oil.
5813–33	5813	Clean-O-Pine Cone Concentrated Disinfectant	Pine oil.
5813–36	5813	Pine Sol Cleaner Disinfectant	Pine oil.
5813–41	5813	Clorox Pine Oil	Pine oil.
5813–54	5813	Pine-Sol Cleaner Disinfectant 1	Pine oil.
5813–56	5813	Pine-Sol Cleaner Disinfectant 6	Pine oil.
5813–83	5813	Clorox Losenip	Pine oil.
5813–107	5813	Sonic	Sodium hypochlorite.
6836–18	6836	Bardac-22	Quaternary ammonium compounds.
6836–19	6836	Bardac-20	Quaternary ammonium compounds.
6836–25	6836	Barquat 4250	Quaternary ammonium compounds.
6836–28	6836	Lonza Disinfectant Cleaner (19–A)	Quaternary ammonium compounds.
6836–30	6836	Lonza Mildew Preventative	Quaternary ammonium compounds.
6836–41	6836	Lonza Mildew Preventative B–20	Quaternary ammonium compounds.
6836–48	6836	Bardac 2250–7.5	Quaternary ammonium compounds.
6836–68	6836	Bardac 20W	Quaternary ammonium compounds.
6836–74	6836	Lonza Formulation S–39	Quaternary ammonium compounds.
6836–87	6836	Lonza DC–102 Quaternary Pine Oil	Quaternary ammonium compounds; Pine oil.
6836–89	6836	205M Sanitizer	Quaternary ammonium compounds.
6836–108	6836	Lonza Carpet Sanitizer CS–202	Quaternary ammonium compounds.
6836–163	6836	Bio-Quat 50–MAB	Quaternary ammonium compounds.
6836–167	6836	Bio Guard M–7 Disinfectant	Quaternary ammonium compounds.
6836–180	6836	Lonza Rd-10 Disinfectant Sanitizer Deodorant	Quaternary ammonium compounds.
6836–201	6836	Barquat MM–55I	Quaternary ammonium compounds.
6836–204	6836	Lonza Formulation DC–110N	Quaternary ammonium compounds.
6836–205	6836	Lonza Formulation DC–108N	Quaternary ammonium compounds.
6836–206	6836	Lonza Formulation DC–109N	Quaternary ammonium compounds.
6836–231	6836	Jordaquat 358	Quaternary ammonium compounds.
6836–267	6836	Lonza Formulation DCN 400–256	Quaternary ammonium compounds.
6836–268	6836	Lonza Formulation DCN 400–128	Quaternary ammonium compounds.
6836–269	6836	Lonza Formulation DCN 400–64	Quaternary ammonium compounds.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Chemical name
6836–284	6836	Lonza Formula LNZ–64	Quaternary ammonium compounds; 1,3-Propanediamine, N-(3-aminopropyl)-N-dodecyl-.
7173–293	7173	Chlorophacinone Refillable Bait Station	Chlorophacinone.
10807–162	10807	Misty Fog Plus Fogger	Pyrethrins; Permethrin; Piperonyl butoxide.
10807–200	10807	Misty Repco Kill IV	Bromacil; 2,4–D, 2-ethylhexyl ester.
10807–201	10807	Misty Repco Kill VF	Bromacil; 2,4–D, 2-ethylhexyl ester.
10807–439	10807	R Value's Roach Kil	Boric acid.
10807–440	10807	Mop Up	Boron sodium oxide (B8Na2O13), tetrahydrate (12280–03–4).
10807–441	10807	Borid Sewer Treatment	Borax.
10807–452	10807	Drax Roach D-Stroy Mix	Boric acid.
10807–453	10807	Drax Roach Assault PGF	Boric acid.
10807–455	10807	Borid Barrier with Boric Acid	Boric acid.
10807–456	10807	Impede Roach Bait with Growth Inhibitor Kills and Controls Cockroaches.	Pyriproxyfen.
10807–457	10807	Invader II with Propoxur	Propoxur.
10807–458	10807	Drax Liquid Ant Killer—SWT	Boric acid.
10807–459	10807	Drax Liquid Ant Killer with Nylar and Boric Acid	Pyriproxyfen; Boric acid.
10807–460	10807	Drax Ant Kill Gel RBA	Boric acid.
10807–461	10807	Drax Ant Kil Gel 2X RBA	Boric acid.
10807–463	10807	Drax Granular Bait with Boric Acid	Boric acid.
10807–464	10807	Drax 2X Granular Bait with Boric Acid	Boric acid.
10807–465	10807	Drax 2X Granular Bait with Boric Acid & Nylar	Pyriproxyfen; Boric acid.
10807–468	10807	Country Vet Roach Kil	Boric acid.
10807–470	10807	Country Vet Fogger with IGR	Prallethrin; Esfenvalerate, Pyriproxyfen.
10807–471	10807	Country Vet Fogger with Pyrethrins	Pyrethrins; MGK 264; Piperonyl butoxide.
35935–68	35935	Oxadiazon Technical	Oxadiazon.
35935–97	35935	Flumioxazin Technical	Flumioxazin.
40849–59	40849	Enforcer Next Day Grass & Weed Killer Concentrate.	Diquat dibromide.
47371–47	47371	FMB 210–8 Quat	Quaternary ammonium compounds.
47371–52	47371	HS–210 Mildew Preventative	Quaternary ammonium compounds.
47371–53	47371	Formulation HS 210–15	Quaternary ammonium compounds.
47371–59	47371	FMB 210–100 Quat Concentrated Germicide	Quaternary ammonium compounds.
47371–71	47371	Huntington FMB 302–8 QUAT Concentrated Germicide.	Quaternary ammonium compounds.
47371–87	47371	TB–A32 Disinfectant Bowl Cleaner	Quaternary ammonium compounds; Hydrochloric acid.
66222–32	66222	Mana Cotoran 4l	Fluometuron.
66222–65	66222	Apollo 42% Ovicide/Miticide	Clofentezine.
66330–260	66330	Flomet 4L	Fluometuron.
67619–15	67619	Needle	Pine oil.
67619–19	67619	Snip	Pine oil.
69681–30	69681	Clor Mor Spa Essence Tabs	Sodium dichloro-s-triazinetrione.
70596–12	70596	Mecoprop-P Technical Acid	Mecoprop-P.
81880–13	81880	NC–398 WG	Halosulfuron-methyl; Dicamba, sodium salt.
81880–14	81880	Achiva Herbicide	Halosulfuron-methyl.
81880–17	81880	NC–319 75WG T	Halosulfuron-methyl.
81880–19	81880	MON 12037 Herbicide	Halosulfuron-methyl.
81880–21	81880	MON 12000 Herbicide	Halosulfuron-methyl.
81880–22	81880	Sempra CA Herbicide	Halosulfuron-methyl.
81880–23	81880	GWN–9843	Halosulfuron-methyl.
81927–15	81927	Alligare Picloram + D RTU	Picloram, triisopropanolamine salt; 2,4–D, triisopropanolamine salt.
81927–17	81927	Alligare Picloram K	Picloram-potassium.
81927–21	81927	Alligare Quinclorac 75 WDG	Quinclorac.
90924–6	90924	Bactron K–55W Microbiocide	Formaldehyde.
AL080004	59639	Sumagic Plant Growth Regulator	Uniconazole P.
AR030011	100	Dual Magnum Herbicide	S-Metolachlor.
AR050006	66222	Bifenthrin Nursery G	Acephate.
AR130007	100	Halex GT Herbicide	Mesotrione; Glyphosate; S-Metolachlor.
AR140001	87290	Willowood Clomazone 3ME	Clomazone.
AR830015	400	Comite Agricultural Miticide	Propargite.
AR930004	59639	Select 2EC Herbicide	Clethodim.
CA030012	100	Clinch Ant Bait	Abamectin.
CA040004	62719	Lorsban 50W Insecticide In Water Soluble Packets.	Chlorpyrifos.
CA040024	8033	Topsin M WSB	Thiophanate-methyl.
CA050015	62719	GF–120 NF Naturalyte Fruit Fly Bait	Spinosad.
CA050020	8033	Topsin M 70WP	Thiophanate-methyl.
CA060008	2935	Wilbur-Ellis Dusting Sulfur	Sulfur.
CA060013	62719	Intrepid 2F	Methoxyfenozide.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Chemical name
CA070013	21164	Akta Klor 25	Sodium chlorite.
CA140001	70506	Manzate Pro-Stick Fungicide	Mancozeb.
CA140003	70506	Penncozeb 4FL Flowable Fungicide	Mancozeb.
CA960027	50534	Bravo 720	Chlorothalonil.
CA990010	62719	Transline	Clopyralid, monoethanolamine salt.
CO100005	59639	Chateau Herbicide WDG	Flumioxazin.
CT070001	62719	Dithane DF Rainshield	Mancozeb.
CT070002	62719	Goal 2XL	Oxyfluorfen.
DE090001	2724	Zoecon Altosid Liquid Larvicide Concentrate	S-Methoprene.
DE100001	62719	Starane Ultra	Fluroxypyr 1-methylheptyl ester.
FL030002	59639	Regiment Herbicide	Bispyribac-sodium.
FL110001	59639	Arena 50 WDG Insecticide	Clothianidin.
FL140008	100	Revus Fungicide	Mandipropamide Technical.
GA020006	59639	Regiment Herbicide	Bispyribac-sodium.
GA940004	62719	Dithane DF Agricultural Fungicide	Mancozeb.
HI080003	61842	Lime-Sulfur Solution	Lime sulfur.
ID020006	8033	Topsin M WSB	Thiophanate-methyl.
ID080003	71711	Moncut 70 DF Fungicide	Flutolanil.
ID090009	66222	Abba 0.15EC	Abamectin.
ID100002	59639	Chateau WDG Herbicide	Flumioxazin.
ID150007	62719	Transform WG	Sulfoxaflor.
ID980010	2935	Supreme Oil	Mineral oil.
IL110002	89459	Prentox Synpren-Fish Toxicant	Piperonyl butoxide; Rotenone; Cube Resins other than rotenone.
IN080002	70506	Dupont Manzate Pro-Stick Fungicide	Mancozeb.
IN960003	62719	Dithane DF Agricultural Fungicide	Mancozeb.
KS050007	34704	Atrazine 4L Herbicide	Atrazine.
KS150001	100	Halex GT Herbicide	Mesotrione; Glyphosate; S-Metolachlor.
KY030002	62719	Dithane DF Rainshield	Gas cartRidge; Mancozeb.
KY080001	70506	Dupont Manzate Pro-Stick Fungicide	Mancozeb.
LA070007	62719	Goal 2XL	Oxyfluorfen.
LA070008	62719	Goal 2XL	Oxyfluorfen.
LA110001	66222	Galigan 2E	Oxyfluorfen.
LA130001	100	Halex GT Herbicide	Mesotrione; Glyphosate; S-Metolachlor.
LA140003	87290	Willowood Clomazone 3ME	Clomazone.
LA150003	100	Halex GT Herbicide	Mesotrione; Glyphosate; S-Metolachlor.
LA990012	59639	Select 2EC Herbicide	Clethodim.
MA020003	62719	Dithane DF Rainshield	Mancozeb.
MA080001	70506	Dupont Manzate Pro-Stick Fungicide	Mancozeb.
MD090004	2724	Zoecon Altosid Liquid Larvicide Concentrate	S-Methoprene.
MD950002	62719	Dithane DF Rainshield	Mancozeb.
ME130004	81880	GWN–1715	Pyridaben.
MN000004	100	Aatrex 4L Herbicide	Atrazine.
MN080004	8033	Topsin M WSB	Thiophanate-methyl.
MN080011	59639	Sureguard Herbicide	Flumioxazin.
MO100004	89459	Prentox Prenfish Toxicant	Rotenone; Cube Resins other than rotenone.
MO140003	87290	Willowood Clomazone 3ME	Clomazone.
MO150002	100	Halex GT Herbicide	Mesotrione; Glyphosate; S-Metolachlor.
MO950004	62719	Dithane DF Rainshield	Mancozeb.
MO970003	59639	Select 2EC Herbicide	Clethodim.
MS020016	62719	Goal 2XL Herbicide	Oxyfluorfen.
MS140004	87290	Willowood Clomazone 3ME	Clomazone.
MS830024	400	Comite Agricultural Miticide	Propargite.
MS930008	59639	Select 2EC Herbicide	Clethodim.
MT070002	10163	Onager Miticide	Hexythiazox.
NC020002	62719	Goal 2XL Herbicide	Oxyfluorfen.
NC020005	62719	Dithane DF Rainshield	Mancozeb.
NC020006	59639	Select 2EC Herbicide	Clethodim.
NC120007	100	Gramoxone SL 2.0	Paraquat dichloride.
NV020003	62719	Goal 2XL Herbicide	Oxyfluorfen.
NV070001	10163	Onager Miticide	Hexythiazox.
NV100002	59639	Chateau Herbicide WDG	Flumioxazin.
NY050001	100	Dual Magnum	S-Metolachlor.
NY070002	8033	Topsin M WSB	Thiophanate-methyl.
NY090001	61842	Whitecap SC Aquatic Herbicide	Fluridone.
NY090004	100	Dual Magnum Herbicide	S-Metolachlor.
NY140002	352	Dupont Aproach Fungicide	Picoxystrobin.
OK100001	8033	F4688 50 WSP Insecticide Termiticide	Acetamiprid; Bifenthrin.
OK150004	100	Halex GT Herbicide	Mesotrione; Glyphosate; S-Metolachlor.
OR020024	62719	Goal 2XL Herbicide	Oxyfluorfen.
OR020025	62719	Goal 2XL Herbicide	Oxyfluorfen.
OR020026	62719	Goal 2XL Herbicide	Oxyfluorfen.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Company No.	Product name	Chemical name
OR070008	10163	Onager Miticide	Hexythiazox.
OR070023	71512	Beleaf 50SG Insecticide	Flonicamid.
OR080021	66222	Abba 0.15EC	Abamectin.
OR080035	100	Callisto Herbicide	Mesotrione.
OR090023	66222	Prometryn 4L	Prometryn.
OR100010	100	Callisto Herbicide	Mesotrione.
OR110001	87290	Willowood Pronamide 50 WSP	Propyzamide.
OR110002	87290	Willowood Pronamide 50 WSP	Propyzamide.
OR110010	87290	Willowood Oxyflo 2 EC	Oxyfluorfen.
OR110011	87290	Willowood Oxyflo 2 EC	Oxyfluorfen.
OR150010	62719	Transform WG	Sulfoxaflor.
OR990006	62719	Goal 2XL Herbicide	Oxyfluorfen.
OR990010	2935	Supreme Oil	Mineral oil.
OR990036	62719	Goal 2XL Herbicide	Oxyfluorfen.
PA950005	62719	Dithane DF Rainshield	Mancozeb.
PA960005	62719	Goal 2XL Herbicide	Oxyfluorfen.
SC030001	59639	Velocity Herbicide	Bispyribac-sodium.
SC030002	62719	Dithane DF Rainshield	Mancozeb.
SC050004	100	Caparol 4L	Prometryn.
SC070001	70506	Clopyr AG Herbicide	Clopyralid, monoethanolamine salt.
SC130002	66222	Mana Atrazine 90DF	Atrazine.
SC960008	62719	Goal 2XL Herbicide	Oxyfluorfen.
SD090003	241	Pendulum 0.86% Plus Fertilizer	Pendimethalin.
SD090009	100	Princep 4L	Simazine.
SD090010	100	Princep Caliber 90 Herbicide	Simazine.
SD100001	7969	Sharpen Herbicide	Saflufenacil.
SD110001	7969	Integrity Powered By Kixor Herbicide	Saflufenacil; Dimethenamide-P.
TN050007	100	Caparol 4L	Prometryn.
TX030014	59639	Velocity Herbicide	Bispyribac-sodium.
TX090008	39039	4-Poster-Tickicide	Permethrin.
TX100019	70506	Devrinol 50–DF Selective Herbicide	Napropamide.
TX140001	87290	Willowood Clomazone 3ME	Clomazone.
TX830028	400	Comite Agricultural Miticide	Propargite.
UT040001	89459	Prentox Perm-X UL 4–4	Permethrin; Piperonyl butoxide.
UT050003	89459	Prentox Perm-X UL 30–30	Permethrin; Piperonyl butoxide.
VA080003	8033	Topsin M WSB	Thiophanate-methyl.
VA940001	62719	Dithane DF Agricultural Fungicide	Mancozeb.
WA020027	62719	Goal 2XL Herbicide	Oxyfluorfen.
WA040036	62719	Goal 2XL	Oxyfluorfen.
WA060009	8033	Tristar 30 SG Insecticide	Acetamiprid.
WA060015	62719	Accord Concentrate	Glyphosate-isopropylammonium.
WA060021	10163	Onager 1E	Hexythiazox.
WA070005	59639	Chateau Herbicide WDG	Flumioxazin.
WA080004	66222	Abba 0.15EC	Abamectin.
WA080008	62719	Starane Ultra	Fluroxypyr 1-methylheptyl ester.
WA080010	62719	Rally 40WSP	Myclobutanil.
WA090018	66222	Prometryn 4L	Prometryn.
WA980023	2935	Supreme Oil	Mineral oil.
WI070009	8033	Topsin M WSB	Thiophanate-methyl.
WY040003	7969	Basagran Herbicide	Sodium bentazon.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
100	Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419.
228	Nufarm Americas, Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
241	BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709.
264	Bayer Cropscience LP, P.O. Box 12014, Research Triangle Park, NC 27709.
352	E. I. Du Pont de Nemours and Company, Chestnut Run Plaza, 974 Centre Road Wilmington, DE 19805.
400	MacDermid Agricultural Solutions, Inc., 245 Freight Street, Waterbury, CT 06702.
432	Bayer Environmental Science, A Division of Bayer Cropscience LP, P.O. Box 12014, Research Triangle Park, NC 27709.
498	Chase Products Co., P.O. Box 70, Maywood, IL 60153.
499	BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company name and address
524	Monsanto Company, 1300 I Street NW., Suite 450 East, Washington, DC 20005.
1448	Buckman Laboratories Inc., 1256 North McLean Blvd., Memphis, TN 38108.
1677	Ecolab, Inc., 370 North Wabasha Street, St. Paul, MN 55102.
1839	Stepan Company, 22 W. Frontage Road, Northfield, IL 60093.
2724	Wellmark International, 1501 E. Woodfield Road, Suite 200 West, Schaumburg, IL 60173.
2935	Wilbur-Ellis Company, 2903 S. Cedar Avenue, Fresno, CA 93725.
3525	Qualco Inc., 225 Passaic Street, Passaic, NJ 07055.
4822	S. C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403.
5383	Troy Chemical Corp., 8 Vreeland Road, Florham Park, NJ 07932.
5813	The Clorox Co., c/o PS&RC, P.O. Box 493, Pleasanton, CA 94566.
6836	Lonza Inc., 90 Boroline Road, Allendale, NJ 07401.
7173	Liphatech, Inc., 3600 W. Elm Street, Milwaukee, WI 53209.
7969	BASF Corporation, Agricultural Products, P.O. Box 13528, Research Triangle Park, NC 27709.
8033	Nisso America, Inc., Agent for Nippon Soda Co., Ltd., 88 Pine Street, 14th Floor, New York, NY 10005.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
10807	ZEP, Inc., c/o Compliance Services, Agent for AMREP, Inc., 1529 Seaboard Industrial Blvd., NW, Atlanta, GA 30318.
21164	Basic Chemicals Company, LLC 5005 LBJ Freeway, Dallas, TX 75244.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, Co 80632.
35935	Nufarm Americas Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
39039	Y-Tex Corporation, 1825 Big Horn Avenue, Cody, WY 82414.
40849	ZEP, Inc., c/o Compliance Services, Agent for ZEP Commerical Sales & Service, 1529 Seaboard Industrial Blvd., NW, Atlanta, GA 30318.
47371	H&S Chemicals Division, c/o Lonza Inc., 90 Boroline Road, Allendale, NJ 07401.
50534	GB Biosciences Corporation, P.O. Box 18300, Greensboro, NC 27419.
59639	Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596.
61842	Pyxis Regulatory Consulting, Inc., Agent for Tessenderlo Kerley, Inc., 4110 136th Street CT NW, Gig Harbor, WA 98332.
62719	Dow Agrosciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268.
66222	Makhteshim Agan of North America, Inc., D/B/A Adama, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
66330	Arysta Lifescience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
67619	Clorox Professional Products Company, c/o PS&RC, P.O. Box 493, Pleasanton, CA 94566.
69681	Allchem Performance Products, Inc., 6010 NW First Place, Gainesville, FL 32607.
70506	United Phosphorus, Inc., 630 Freedom Business Center, Suite 402, King Of Prussia, PA 19406.
70596	Nufarm Americas, Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
71512	ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077.
71711	Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808.
81880	Canyon Group LLC, c/o Gowan Company, 370 S. Main Street, Yuma, AZ 85364.
81927	Pyxis Regulatory Consulting, Inc., Agent for Alligare, LLC, 4110 136th Street CT NW, Gig Harbor, WA 98332.
87290	Wagner Regulatory Associates, Inc., Agent for Willowood, LLC, P.O. Box 640, Hockessin, DE 19707.
89459	Central Garden & Pet Company, 1501 E. Woodfield Road, Suite 200 West, Schaumburg, IL 60173.
90924	Ecolab, Inc., Agent for Nalco Champion, 370 North Wabasha Street, St. Paul, MN 55102.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. EPA will provide a 180-day comment period on the proposed requests. Thereafter, the EPA Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products until January 15, 2017. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 28, 2016.

Delores Barber,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2016–16447 Filed 7–11–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Termination; 10421 First Guaranty Bank and Trust Company of Jacksonville, Jacksonville, Florida

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10421 First Guaranty Bank and Trust Company of Jacksonville, Jacksonville, Florida (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of First Guaranty Bank and Trust Company of Jacksonville (Receivership Estate); the Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective July 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Date: July 6, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–16381 Filed 7–11–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, July 14, 2016 at 10 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correction and Approval of Minutes for June 16, 2016
Draft Advisory Opinion 2016–06: Internet Association and Internet Association Political Action Committee
Draft Advisory Opinion 2016–07: United National Committee
Proposed Statement of Policy Regarding the Public Disclosure of Closed Enforcement Files
Revisions to Forms
REG 2013–01: Draft Notice of Proposed Rulemaking on Technological Modernization
Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2016–16498 Filed 7–8–16; 11:15 am]

BILLING CODE 6715–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0129; Docket 2016–0053; Sequence 8]

Submission for OMB Review; Cost Accounting Standards Administration

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for extension of an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning cost accounting standards administration. A notice was published in the **Federal Register** at 81 FR 7343 on February 11, 2016. One letter containing numerous comments was received.

DATES: Submit comments on or before August 11, 2016.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 9000–0129, Cost Accounting Standards Administration". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 9000–0129, Cost Accounting Standards Administration" on your attached document.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0129, Cost Accounting Standards Administration.

Instructions: Please submit comments only and cite Information Collection 9000–0129, Cost Accounting Standards Administration, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Kathlyn Hopkins, Procurement Analyst, Office of Acquisition Policy, GSA, 202–969–7226, or email *kathlyn.hopkins@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Subpart 30.6 and the provision at 52.230–6 include pertinent rules and regulations related to the Cost Accounting Standards (CAS), along with administrative policies and procedures. These require companies performing CAS-covered contracts to submit notifications and descriptions of certain cost accounting practice changes, including revisions to their Disclosure Statements, if applicable. The frequency of this collection is variable, as detailed below.

FAR 52.230–6 requires contractors to submit to the cognizant Contracting Officer a description of any cost accounting practice change, the total potential impact of the change on contracts containing a CAS provision, a general dollar magnitude or detailed cost-impact proposal of the change which identifies the potential shift of costs among CAS-covered contracts by contract type (*i.e.,* firm fixed-price, incentive cost-plus-fixed-fee, etc.) and other contractor business activity.

B. Discussion and Analysis

One respondent submitted public comments on the extension of the previously approved information collection. The respondent offered numerous comments, which are organized topically and analyzed below:

Comment #1 on burdens, number of DoD respondents: The respondent posited that the Government's estimate of 740 respondents [working under CAS-covered contracts] for the Department of Defense (DoD) was overstated, given that the estimate reflected the number of unique DUNS numbers. The respondent stated that the number of respondents should be lower, as 740 unique DUNS numbers would equate to approximately 500 contractor Business Units and Segments, plus approximately 150 contractor Home Offices, resulting in an estimate of 650 DoD respondents.

Response: The Government estimate was based on data from the Defense Contract Audit Agency's (DCAA) Management Information System, which shows 740 active contractors (615 with full CAS coverage, 125 with modified CAS coverage). (See also Comment #2, which addresses respondents not overseen by DCAA.) Given the increased granularity the respondent provided vis-à-vis Business Units, Segments, and contractor Home Offices, the Government has incorporated the 650 figure in its revised estimate of the number of DoD respondents.

Comment #2 on burdens, number of civilian agency respondents: The respondent stated that the initial Government estimate of 100 additional contractors under civilian-agency cognizance was significantly understated. Based on informal data gathering, the respondent estimated that non-DCAA entities were serving as the Cognizant Federal Agency for a total of 400 additional Business Units, Segments, and Home Offices.

Response: The Government estimate of the number of respondents working under CAS-covered contracts not overseen by DCAA was based on expert judgment, indicating that DCAA has cognizance over nearly 90% of the CAS-covered contractors, and noting that some contractors overseen by DCAA also have civilian agency contracts. Considering the respondent's estimate of 400 additional contractors with CAS-covered contracts, the Government extracted a random sample from five years of Federal Procurement Data System (FPDS) records on potentially CAS-covered contractors. Of that sample, 70% were identified as DoD contractors and 30% were identified as civilian-agency contractors. The subset of civilian-agency contractors and the list of DCAA-overseen contractors overlapped only slightly (2% of the civilian-agency contractors in the random sample were overseen by DCAA). Therefore, starting with the 650 DoD respondents, as accepted via the response to Comment #1 above (which equates to 72% of the total), the Government estimates that the total number of respondents is 903, leaving 253 under other-than-DCAA cognizance.

Comment #3 on burdens, number of responses: Defining a "response" to mean a contractor's formal written submission to the Government pursuant to the terms of FAR 52.230–6, the respondent noted that the clause requires the following significant types of responses: (a) Advance notifications or requests for retroactive application of cost accounting practice changes (FAR 52.230–6(b)); (b) Revised Cost Accounting Standards Board (CASB) Disclosure Statements (FAR 52.230–6(b)), including transmittal letter, revision summary; (c) Adequacy review/walkthrough and support; (d) General Dollar Magnitude (GDM) proposals (FAR 52.230–6(c)(1)), including periodic updates as may be requested by the Government, Audit walkthroughs, data requests, and other audit support, Responses to audit reports, Negotiations; (e) Detailed Cost Impact (DCI) proposals (FAR 52.230–6(c)(2)), including periodic updates as may be requested by the Government; audit walkthroughs, data requests, and other audit support; responses to audit reports; negotiations; (f) Requests for Desirable Changes (FAR 52.230–6(c)(3)&(4)), including requests for additional data and requests for additional analysis.

Discussions among the organizations represented by the respondent indicate that items (a), (b) and (c), as listed above, are produced annually. Many noted that DoD often requests item (e), which would bring the number of responses to four annually. Some noted that they have experienced as many as six to eight responses annually, but this was not common. Still, the respondent's assessment suggests the Government's initial estimate of 2.27 responses per respondent per year was low, and recommended an estimate of 3.5 responses per year.

Response: Based upon the data collected from the organizations (primarily DoD contractors) for whom the respondent is speaking, the number of responses should fall between 3 and 4 annually. Based upon expert assessment of all Government contractors with CAS-covered contracts, the number of responses should fall between 2 and 2.5 annually. Given that there are more DoD contractors with CAS-covered contracts, the revised Government estimate uses a blend of the two assessments: 3 responses annually per respondent.

Comment #4 on burdens, average hours per response: The respondent acknowledged that, of the three factors bearing upon the Government's estimate, this factor is the most difficult to reckon. Of the types of responses listed above, some are more time-intensive than others. Notifications and Disclosure Statement revisions, although cumbersome, require much less time than GDM, DCI, and Desirable Change proposals. Some circumstances that significantly influence burden per response include: (a) The type of cost accounting practice change (*i.e.,* required, unilateral, correction of noncompliance); (b) the nature of the change (*e.g.,* change in direct vs. indirect, changes in the composition of cost pools, change in the nature or composition of allocation bases, changes in how costs are measured, etc.); (c) the number of changes that become effective; (d) where the change occurs (within a Business Unit/Segment, at the Home office—thereby impacting all associated segments); (e) number of proposal updates requested by the Government after initial submission; (f) time between initial submission and audit; and (g) the timing, duration, depth, and quality of audit.

The respondent reported that 175 hours may understate the effort necessary to prepare certain types of responses (*e.g.,* GDMs, DCIs), but acknowledged that notifications and Disclosure Statement revisions generally took less time to prepare. Although the respondent suggested that the Government's estimate of hours per response was low, there was insufficient quantitative basis to recommend an alternative estimate.

Response: The 175-hour estimate is representative of the average level of effort for the most commonly needed artifacts, according to a Government subject matter expert.

All in all, the initial Government estimate was increased in two areas: (1) Number of respondents, and (2) number of annual responses per respondent. The number of hours per response remained the same.

The respondent offered several recommendations aimed at reducing the number of responses and the average hours per response, while also reducing the Government's burdens without any increase in financial risk. While the respondent generally affirmed the necessity of collecting this information, comments were received on ways to improve the quality, utility, and clarity of the information collection, including the use of information technology to ease the collection burden, as detailed below.

Comment A, 60-day advance notice of cost accounting practice changes (FAR 52.230–6(b)). Cost accounting practice changes are not subject to the Government's prospective review and approval (see FAR 30.603–2(a)(1)). The Government reviews the adequacy of new cost accounting practices and evaluates them for compliance with the Standards. Because there is no approval process, the FAR 52.230–6(b) advance notification (60 days) requirement lacks practical utility.

To the extent the Government needs to know about a contractor's cost accounting practices for contract price negotiations, the Truth in Negotiations Act (TINA) requires contractors to maintain a current, accurate, and complete Disclosure Statement because it is "cost or pricing data." TINA provides remedies for defective data if the Government relies on a non-current cost accounting disclosure to its detriment.

Additionally, if TINA does not apply to a negotiated award (as is the case with competitively awarded cost-type contracts) but the Government nevertheless relies to its detriment on a contractor's non-current cost accounting disclosures, then FAR 30.603–2(c)(2) allows the Government to assert a CAS 401 non-compliance. FAR 52.230–6(g) prescribes the process for resolving non-compliances.

Response: The Councils appreciate this analysis and perspective, and will consult with the Cost Accounting Standards Board on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment B, Retroactive cost accounting practice changes (FAR 52.230–6(b)(3)). Retroactive cost accounting practice changes (only within a contractor's current fiscal year) are subject to Government review and approval (see FAR 30.603–2(d)). This requirement has no practical utility because the process to measure the cost impact of cost accounting practice changes includes all "affected" CAS-covered contracts regardless of whether a change is prospective, retroactive, or both. Additionally, it makes no sense that retroactive unilateral cost accounting changes require Government approval but prospective changes and corrections of non-compliances do not. Moreover, if a contractor priced and negotiated a CAS-covered contract using a cost accounting practice that it contemplated changing (and ultimately did change) retroactively during the fiscal year, then the remedies provided by CAS and TINA are the same—a price/cost reduction. Thus, the existence of a Government approval process has no bearing on these statutory remedies.

Response: The Councils appreciate this analysis and perspective, and will consult with the Cost Accounting Standards Board on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment C, Estimates of future cost impacts in GDM and DCI proposals (FAR 52.230–6(f)). Estimating the cost impact of cost accounting practice changes on affected CAS-covered contracts for future periods aligns with the CAS prohibition against the Government paying "increased costs in the aggregate" relative to certain types of changes. However, these estimates are difficult and time consuming, and this seemingly logical requirement has little or no practical utility because the Government rarely resolves cost impact proposals until most (or all) actual costs have been incurred. The respondent speculated that this situation occurs for two primary reasons: (1) Estimates are notoriously difficult for the Government to evaluate and negotiate, and (2) the Government lacks the resources (and a regulatory mandate) to resolve cost impact proposals timely. Making the utility of these forward-looking estimates even less practical, the respondent reported that the Government routinely requests updates to previously-submitted GDMs and DCIs until nearly all estimates have become actuals due to the passage of time.

Response: The Councils appreciate this analysis and perspective, and will consult with the CASB on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment D, Streamlining the notification protocol. The respondent, while maintaining that the current protocol for notifying the Government of cost accounting practice changes lacks practical utility, agreed that contractors must notify the Government about changes in cost accounting practices. The respondent maintained that contractors should be free to change accounting practices prospectively, retroactively within the current accounting period, and retroactively as needed to correct a noncompliance, stressing that advance notice is wholly unnecessary, and suggesting the below protocol that would reduce the annual burden on both contractors and the Government:

1. Contractors must notify the Government of prospective cost accounting practice changes on or before the effective date of the change. For retroactive changes within the cost accounting period and corrections of non-compliances, contractors must provide notice on or before the effective date of the change. Modification of the current notification format or the evaluation of cost impacts (including materiality) is not needed.

2. Contractors also summarize all changes effective or implemented within the cost accounting period in their annual Final Indirect Cost Rate Proposals. This is an existing requirement for most Respondents pursuant to FAR 52.216–7(d)(2)(iii)(M). For contractors who do not perform contracts containing FAR 52.216–7, add a requirement at FAR 52.230–6 that contractors nevertheless must report all cost accounting practice changes annually, not later than 6 months after the contractor's cost accounting period ends.

3. For cost accounting practice changes that occur during the cost accounting period, contractors must update their CASB Disclosure Statements at least once annually (within 90 days after the end of the cost accounting period), or no later than the first Certificate of Current Cost or Pricing Data after the changes become effective (often be in connection with Forward Pricing Rate Proposals). Non-disclosure of cost accounting practice changes at the time of a price negotiation based on Cost Analysis (see FAR 15.404–1(c)) may constitute a CAS 401 non-compliance at the contracting officer's discretion.

Response: The Councils appreciate this analysis and perspective, and will consult with the CASB on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment E, Option (or preference) for evaluating and negotiating cost impacts in arrears. The current regulatory protocol for measuring and resolving cost impacts implicitly prefers promptness after notification. But as noted above, actual practice essentially negates the utility of this approach. The respondent welcomes the prompt resolution of cost accounting practice changes in return for the significant burden of preparing forward-looking cost impact estimates. However, if the Government is either unwilling or unable to resolve cost impacts promptly, the parties would both benefit from either a preference for, or an explicit election of, resolving cost impacts in arrears. For example:

1. Allow contractors to prepare cost impact proposals annually, to include all cost accounting practice changes summarized on Schedule M of each Respondent's Final Indirect Cost Rate Proposal. Cost impact proposals (either GDM or DCI, at the Government's request) would be due within nine months (or other mutually agreeable period) after the end of each cost accounting period (if changes occurred).
2. Modify the current cost impact protocol to establish an explicit period (*e.g.,* 180 days) for the Government to evaluate and negotiate after the initial receipt of a contractor's GDM or DCI proposal. If the Government does not act during this period, the cost impact proposal automatically becomes subject to negotiation in arrears (*i.e.,* once substantially all costs have been incurred on affected contracts). This requirement would significantly reduce contractors' burden with periodically updating their proposals, as well as the Government's burden of auditing estimates that become stale as time passes.
3. Allow the Government and the contractor to elect to resolve cost impacts in arrears.
4. Contractors and the Government can use, without significant modification, the existing annual Final Indirect Cost Rate Proposal process (FAR 52.216–7(d)) to track both cost accounting practice changes and CAS-covered contracts affected by the change(s). Contractors who do not submit annual Final Indirect Cost Rate Proposals will nevertheless be required to report changes annually (see recommendation above).

Response: The Councils appreciate this analysis and perspective, and will consult with the CASB on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment F, Streamlining the cost impact resolution protocol at FAR 30.606(a)(3). Of all changes made to FAR Part 30 in 2005, the prohibitions against "combining" the impacts of certain changes established at FAR 30.606(a)(3)(i)&(ii) not only add significant burden on contractors, but also create significant inequity. When contractors make multiple simultaneous cost accounting practice changes (very common), these cumbersome and onerous rules require contractors to measure each change separately. Therefore, a single GDM or DCI proposal becomes multiple proposals—one for each change. This is unnecessary given that the spirit of the statutory CAS cost impact process is merely to prevent the Government from paying increased costs in the aggregate.

In this regard, for both unilateral changes and corrections of non-compliances, the CAS administration regulations at CFR 9903.201–1(b)&(d) provide that (1) the Contracting Officer shall make a finding that the contemplated contract price and cost adjustments will protect the United States from payment of increased costs, in the aggregate and (2) that the net effect of the adjustments being made does not result in the recovery of more than the estimated amount of such increased costs. The distinctions created in FAR 30.606(a)(3) are inconsistent with these CAS regulations, create significant unnecessary burden for both parties, and cause significant negotiation challenges as the Government often attempts to recover more than increased costs in the aggregate as contemplated by the CAS regulations. To relieve the unnecessary burden FAR 30.606(a)(3) places on preparing and evaluating GDM and DCI proposals, and to foster equitable resolutions, the respondent recommended:

1. Allow required changes, unilateral changes, and desirable changes to be combined.
2. Allow prospective corrections of non-compliances to be combined with other types of changes if made simultaneously. (The respondent noted that retroactive corrections of noncompliances that impact prior cost accounting periods cannot be combined with other types of changes, since because unilateral changes can only be made retroactively to the beginning of the current cost accounting period.) This topic is discussed in a recent Armed Services Board of Contract Appeals matter. In the Appeal of Raytheon (ASBCA Nos. 57801, 57803, 58068), the Board provides a history of how combinations were once permitted.

Response: The Councils appreciate this analysis and perspective, and will consult with the CASB on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment G, Eliminating the Government's ability to double-recover costs under FAR 30.604(h). The current construct of FAR 30.604(h) defines an "increased cost to the Government" as either:

An increase in costs allocated to cost-reimbursable contracts, or a decrease in costs allocated to fixed price contracts. "Increased cost in the aggregate" is determined by adding these two amounts.

While this provision seems to make sense at first glance, practical experience often yields inequitable results. For example, if a contractor changes a cost accounting practice that shifts $10 away from a fixed price contract (*i.e.,* costs decrease) and onto a cost-reimbursable contract (*i.e.,* costs increase), the regulatory regime at FAR 30.604(h) concludes that "increased costs in the aggregate" is $20. Of course, this is simply not true; $10 has not magically become $20 and regulations that create this kind windfall to the Government should be modified to curtail it. In the Appeal of Raytheon (ASBCA Nos. 57801, 57803, 58068), the Board agreed that this regulatory construct may create a windfall for the Government. Addressing this inequity will reduce the burden on contractors and the Government by improving the speed at which cost impacts are negotiated. Many cost impacts languish unsettled because doing nothing seems more reasonable than proceeding under the rules. To resolve this logjam, we recommend adding a simple provision to FAR 30.604(h), the essence of which is from CFR 9903.201–1(b), that states "The CFAO is responsible for (1) ensuring the cost impact calculation will protect the United States from payment of increased costs in the aggregate and (2) that the net effect of any contract price or cost adjustments does not result in the recovery of more than the estimated amount of such increased costs. Care must be taken to ensure costs are not double-recovered through both contract price adjustments and cost limitations."

Response: The Councils appreciate this analysis and perspective, and will consult with the CASB on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

Comment H, Converting the current Disclosure Statement from paper to an electronic, secure database. The respondent's final recommendation was that the Government provide a centralized, secure, on-line means of disclosing cost accounting practices. This could be done similarly to, or in conjunction with, the Government's centralized System for Award Management (SAM). Taking this important step would greatly improve the contractor disclosure process and reduce burden for both contractors and the Government in the following ways:

1. No more cumbersome Microsoft Word document that takes more time to format than to complete;

2. An electronic database would automatically track all changes made by contactors, which would make review easier for both contractors and the Government;

3. Because this system would include the contractor's cognizant contracting officer(s), it could automatically notify them of Disclosure Statement revisions;

4. The system could be used for notifications so that even if Disclosure Statements have not been updated, the Government is aware of all new cost accounting practices;

5. Government auditors could easily verify the sufficiency of contractors' annual disclosure of cost accounting practice changes;

6. On-line tracking of cost accounting practice changes would improve visibility into and status of cost impact proposals and resolutions;

7. Government-wide centralized access would allow PCOs to verify the status of Disclosure Statement submissions and adequacy determinations.

Response: The Councils appreciate this analysis and perspective, and will consult with the CASB on the matter, which falls outside the scope of the current information collection. There are no changes to the burden estimates based on this comment.

C. Annual Reporting Burden

Number of Respondents: 903.

Responses per Respondent: 3.

Total Responses: 2709.

Average Burden Hours per Response: 175.

Total Burden Hours: 474,075.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control Number 9000–0129, Cost Accounting Standards Administration, in all correspondence.

William Clark,

Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2016–16382 Filed 7–11–16; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0852; Docket No. CDC–2016–0062]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on "Prevalence Survey of Healthcare-Associated Infections and Antimicrobial Use in U.S. Hospitals." This data collection will provide information on the burden and types of healthcare-associated infections, including infections due to antimicrobial-resistant pathogens, and antimicrobial drugs in U.S. short-term acute care hospitals.

DATES: Written comments must be received on or before September 12, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0062 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Prevalence Survey of Healthcare-Associated Infections (HAIs) and Antimicrobial Use in U.S. Acute Care Hospitals—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Preventing healthcare-associated infections (HAIs) and reducing the emergence and spread of antimicrobial resistance are priorities for the CDC and the U.S. Department of Health and Human Services (DHHS). Improving antimicrobial drug prescribing in the United States is a critical component of strategies to reduce antimicrobial resistance, and is a key component of the President's National Strategy for Combating Antibiotic Resistant Bacteria (CARB), which calls for "inappropriate inpatient antibiotic use for monitored conditions/agents" to be "reduced 20% from 2014 levels" (page 9, *https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf*). To achieve these goals and improve patient safety in the United States, it is necessary to know the current burden of infections and antimicrobial drug use in different healthcare settings, including the types of infections and drugs used in short-term acute care hospitals, the pathogens causing infections, and the quality of antimicrobial drug prescribing. Today more than 5,000 short-term acute care hospitals participate in national HAI surveillance through the CDC's National Healthcare Safety Network (NHSN, OMB Control No. 0920–0666, expiration 12/31/18). These hospitals' surveillance efforts are focused on those HAIs that are required to be reported as part of state legislative mandates or Centers for Medicare & Medicaid Services (CMS) Inpatient Quality Reporting (IQR) Program. Hospitals do not report data on all types of HAIs occurring hospital-wide. Data from a previous prevalence survey showed that approximately 28% of all HAIs are included in the CMS IQR Program. Periodic assessments of the magnitude and types of HAIs occurring in all patient populations in hospitals are needed to inform decisions by local and national policy makers and by hospital infection prevention professionals regarding appropriate targets and strategies for HAI prevention.

The CDC's hospital prevalence survey efforts began in 2008–2009. A pilot survey was conducted over a 1-day period at each of nine acute care hospitals in one U.S. city. This pilot phase was followed in 2010 by a phase 2, limited roll-out HAI and antimicrobial use prevalence survey, conducted in 22 hospitals across 10 Emerging Infections Program sites (California, Colorado, Connecticut, Georgia, Maryland, Minnesota, New Mexico, New York, Oregon, and Tennessee). A full-scale, phase 3 survey was conducted in 2011, involving 183 hospitals in the 10 EIP sites. Data from this survey conducted in 2011 showed that there were an estimated 722,000 HAIs in U.S acute care hospitals in 2011, and about half of the 11,282 patients included in the survey in 2011 were receiving antimicrobial drugs. The survey was repeated in 2015–2016 to update the national HAI and antimicrobial drug use burden; data from this survey will also provide baseline information on the quality of antimicrobial drug prescribing for selected, common clinical conditions in hospitals. Data collection is ongoing at this time.

A revision of the prevalence survey's existing OMB approval is sought to reduce the data collection burden and to extend the approval to 12/31/19 to allow another short-term acute care hospital survey to be conducted in 2019. Data from the 2019 survey will be used to evaluate progress in eliminating HAIs and improving antimicrobial drug use.

The 2019 survey will be performed in a sample of up to 300 acute care hospitals, drawn from the acute care hospital populations in each of the 10 EIP sites (and including participation from many hospitals that participated in prior phases of the survey). Infection prevention personnel in participating hospitals and EIP site personnel will collect demographic and clinical data from the medical records of a sample of eligible patients in their hospitals on a single day in 2019, to identify CDC-defined HAIs and collect information on antimicrobial drug use. The survey data will be used to estimate the prevalence of HAIs and antimicrobial drug use and describe the distribution of infection types and pathogens. The data will also be used to determine the quality of antimicrobial drug prescribing. These data will inform strategies to reduce and eliminate healthcare-associated infections—a DHHS Healthy People 2020 objective (*http://www.healthypeople.gov/2020/topicsobjectives2020/overview.aspx?topicid=17*). This survey project also supports the CDC Winnable Battle goal of improving national surveillance for healthcare-associated infections (*http://www.cdc.gov/winnablebattles/Goals.html*) and the CARB National Strategy (*https://www.whitehouse.gov/sites/default/files/docs/carb_national_strategy.pdf*) and Action Plan (*https://www.whitehouse.gov/sites/default/files/docs/national_action_plan_for_combating_antibotic-resistant_bacteria.pdf*).

There are no costs to respondents other than their time. The total estimated annualized burden for the information collection request is 2,010 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Infection preventionist ..	Healthcare Facility Assessment (HFA)	300	1	45/60	225
	Patient Information Form (PIF)	300	21	17/60	1785
Total	....				2010

Jeffrey M. Zirger,

Health Scientist, Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–16420 Filed 7–11–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–16–16MM]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Performance Monitoring of "Working with Publicly Funded Health Centers to Reduce Teen Pregnancy among Youth from Vulnerable Populations"—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In 2014, the US rate of 24.2 births per 1,000 female teens aged 15–19 was the highest of all Western industrialized countries. Access to reproductive health services and the most effective types of contraception has been shown to reduce the likelihood that teens become pregnant. Nevertheless, recent research and lessons learned through a previous teen pregnancy prevention project implemented through CDC in partnership with the Office of Adolescent Health (2010–2015; OMB no. 0920–0952, exp. date 12/31/2015) demonstrate that many health centers serving teens do not engage in youth-friendly best practices that may enhance access to care and to the most effective types of contraception. Furthermore, youth at highest risk of experiencing a teen pregnancy are often not connected to the reproductive health care that they need, even when they are part of a population that is known to be at high risk for a teen pregnancy. Significant racial, ethnic and geographic disparities in teen birth rates persist and continue to be a focus of public health efforts.

To address these challenges, CDC is providing funding to three organizations to strengthen partnerships and processes that improve reproductive health services for teens. Mississippi First, Inc., a non-profit focused on child well-being and educational achievement, was funded to work in Coahoma, Quitman and Tunica counties in Mississippi. Sexual Health Initiatives For Teens North Carolina (SHIFT NC), a non-profit organization focused on the sexual health of adolescents, was funded to work in Durham County, North Carolina. The Georgia Association for Primary Health Care, Inc, which represents all of Georgia's Federally Qualified Health Centers, was funded to work in Chatham County, Georgia. CDC's awardees will work with approximately 25 publicly funded health centers to support implementation of evidence-based recommendations for health centers and providers to improve adolescent access to reproductive health services. In addition, awardees will work with approximately 35 youth-serving organizations (YSO) to provide staff training and develop systematic approaches to identifying youth who are at risk for a teen pregnancy and referring those youth to reproductive health care services. Finally, awardees will develop communication campaigns that increase awareness of the partner health centers' services for teens. Activities are expected to result in changes to health center and YSO partners' policies, to staff practices, and to youth health care seeking and teen pregnancy prevention behaviors.

The best practices to improve adolescent access to reproductive health services included in this program are supported by evidence in the literature and recommended by major medical associations. Each of the components of the current project has been implemented as part of past teen pregnancy prevention efforts. Consistent with CDC's mission of using evidence to improve public health programs, conducting an evaluation of combined best practices, in concert with community-clinical linkage of youth to services to increase their access to reproductive health care, can provide information that will inform future teen pregnancy prevention efforts. CDC therefore plans to collect information needed to assess these efforts. Information will be collected from the CDC awardees, the health center and YSO partner organizations, staff at these organizations, and the youth served by the health center partner organizations. CDC will use the information to determine the types of training and technical assistance that are needed, to monitor whether awardees meet objectives related to health center and YSO partners' policies and staff practices, to support a data-driven quality improvement process for adolescent sexual and reproductive health care services and referrals, and to assess whether the project model was effective in increasing the utilization of services by youth.

OMB approval is requested for three years. Participation in the organizational assessment activities is required for awardees and partner organizations. Participation in the Health Center Youth Survey is voluntary for youth and will not involve the collection of identifiable personal information. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1,150.

ESTIMATED ANNUALIZED BURDEN HOURS

Respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Private Sector	Health Center Organizational Assessment	21	1	2
	Quarterly Health Center Performance Measure Reporting Tool.	21	3	4
	Annual Health Center Performance Measure Reporting Tool.	21	1	6
	Health Center Provider Survey	126	1	20/60
	Youth Serving Organization (YSO) Organizational Assessment.	15	1	1
	YSO Performance Measure Reporting Tool	15	4	1
	Youth Serving Organization (YSO) Staff Survey	225	1	20/60
	Awardee Training and Technical Assistance Tool	3	12	2
	Awardee Performance Measure Reporting Tool	3	1	1
Individual	Health Center Youth Survey	1050	1	10/60
State and Local Government	Health Center Organizational Assessment	4	1	2
	Quarterly Health Center Performance Measure Reporting Tool.	4	3	4
	Annual Health Center Performance Measure Reporting Tool.	4	1	6
	Health Center Provider Survey	24	1	20/60
	Youth Serving Organization (YSO) Organizational Assessment.	20	1	1
	YSO Performance Measure Reporting Tool	20	4	1
	Youth Serving Organization (YSO) Staff Survey	300	1	20/60

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–16419 Filed 7–11–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services, HHS

[Document Identifiers: CMS–10286 and CMS–10488]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by *August 11, 2016:*

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs
Attention: CMS Desk Officer
Fax Number: (202) 395–5806 *OR*
Email: OIRA_submission@omb.eop.gov

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Notice of

Research Exception under the Genetic Information Nondiscrimination Act; *Use:* Under the Genetic Information Nondiscrimination Act of 2008 (GINA), a plan or issuer may request (but not require) a genetic test in connection with certain research activities so long as such activities comply with specific requirements, including: (i) The research complies with 45 CFR part 46 or equivalent federal regulations and applicable State or local law or regulations for the protection of human subjects in research; (ii) the request for the participant or beneficiary (or in the case of a minor child, the legal guardian of such beneficiary) is made in writing and clearly indicates that compliance with the request is voluntary and that non-compliance will have no effect on eligibility for benefits or premium or contribution amounts; and (iii) no genetic information collected or acquired will be used for underwriting purposes. The Secretary of Labor or the Secretary of Health and Human Services is required to be notified if a group health plan or health insurance issuer intends to claim the research exception permitted under Title I of GINA. Nonfederal governmental group health plans and issuers solely in the individual health insurance market or Medigap market will be required to file with the Centers for Medicare & Medicaid Services (CMS). The Notice of Research Exception under the Genetic Information Nondiscrimination Act is a model notice that can be completed by group health plans and health insurance issuers and filed with either the Department of Labor or CMS to comply with the notification requirement. *Form Number:* CMS–10286 (OMB Control Number 0938–1077); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 2; *Total Annual Responses:* 2; *Total Annual Hours:* 1. (For policy questions regarding this collection contact Russell Tipps at 301–492–4371).

2. *Type of Information Collection Request:* Revision; *Title of Information Collection:* Consumer Experience Survey Data Collection; *Use:* Section 1311(c)(4) of the Affordable Care Act requires the Department of Health and Human Services (HHS) to develop an enrollee satisfaction survey system that assesses consumer experience with qualified health plans (QHPs) offered through an Exchange. It also requires public display of enrollee satisfaction information by the Exchange to allow individuals to easily compare enrollee satisfaction levels between comparable plans. HHS established the QHP Enrollee Experience Survey (QHP Enrollee Survey) to assess consumer experience with the QHPs offered through the Marketplaces. The survey includes topics to assess consumer experience with the health care system such as communication skills of providers and ease of access to health care services. CMS developed the survey using the Consumer Assessment of Health Providers and Systems (CAHPS®) principles (*http://www.cahps.ahrq.gov/about.htm*) and established an application and approval process for survey vendors who want to participate in collecting QHP enrollee experience data.

The QHP Enrollee Survey, which is based on the CAHPS® Health Plan Survey, will (1) help consumers choose among competing health plans, (2) provide actionable information that the QHPs can use to improve performance, (3) provide information that regulatory and accreditation organizations can use to regulate and accredit plans, and (4) provide a longitudinal database for consumer research. CMS completed two rounds of developmental testing including 2014 psychometric testing and 2015 beta testing of the QHP Enrollee Survey. The psychometric testing helped determine psychometric properties and provided an initial measure of performance for Marketplaces and QHPs to use for quality improvement. Based on psychometric test results, CMS further refined the questionnaire and sampling design to conduct the 2015 beta test of the QHP Enrollee Survey. CMS obtained clearance for the national implementation of the QHP Enrollee Survey which is currently being conducted in 2016. At this time, CMS is requesting approval of adding six disability status items required by section 4302 of the Affordable Care Act and that were tested during the 2014 psychometric testing of the QHP Enrollee Survey. With the addition of these six questions, the revised total estimated annual burden hours of national implementation of the QHP Enrollee Survey is 37,823 hours with 105,015 responses. The revised total annualized burden over three years for this requested information collection is 113,469 hours and the total average annualized number of responses is 315,045 responses. *Form Number:* CMS–10488 (OMB control number 0938–1221). *Frequency:* Annually; *Affected Public:* Public Sector (Individuals and Household), Private Sector (business or other for-profit and not-for-profit institutions); *Number of Respondents:* 105,015; *Total Annual Responses:* 105,015; *Total Annual Hours:* 37,823. (For policy questions regarding this collection contact Nidhi Singh Shah at 301–492–5110.)

Dated: July 7, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–16445 Filed 7–11–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the National Preparedness and Response Science Board

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the National Preparedness and Response Science Board (NPRSB) will be holding a public teleconference.

DATES: The NPRSB will hold a public meeting on July 29, 2016, from 4:00 p.m. to 5:00 p.m. EST. The agenda is subject to change as priorities dictate.

ADDRESSES: Individuals who wish to participate should send an email to *NPRSB@HHS.GOV* with "NPRSB Registration" in the subject line. The meeting will occur by teleconference. To attend via teleconference and for further instructions, please visit the NPRSB Web site at *HTTP://WWW.PHE.GOV/NPRSB.*

FOR FURTHER INFORMATION CONTACT: Please submit an inquiry via the NPRSB Contact Form located at: *http://www.phe.gov/Preparedness/legal/boards/nprsb/Pages/RFNBSBComments.aspx.*

SUPPLEMENTARY INFORMATION: Pursuant to section 319M of the Public Health Service Act (42 U.S.C. 247d–7f) and section 222 of the Public Health Service Act (42 U.S.C. 217a), HHS established the NPRSB. The Board shall provide expert advice and guidance to the Secretary on scientific, technical, and other matters of special interest to HHS regarding current and future chemical, biological, nuclear, and radiological agents, whether naturally occurring, accidental, or deliberate. The NPRSB may also provide advice and guidance to the Secretary and/or the Assistant Secretary for Preparedness and Response on other matters related to public health emergency preparedness and response.

Background: This public meeting via teleconference will be dedicated to the NPRSB's deliberation and vote on the Public Health Emergency Medical Countermeasures Enterprise Medical Countermeasures Preparedness Assessment report. Subsequent agenda topics will be added as priorities dictate. Any additional agenda topics will be available on the NPRSB July 29, 2016, meeting Web page, available at *HTTP://WWW.PHE.GOV/NPRSB.*

Availability of Materials: The meeting agenda and materials will be posted prior to the meeting on the July 29th meeting Web page at *HTTP:// WWW.PHE.GOV/NPRSB.*

Procedures for Providing Public Input: Members of the public are invited to attend by teleconference via a toll-free call-in phone number which is available on the NPRSB Web site at *HTTP:// WWW.PHE.GOV/NPRSB.* All members of the public are encouraged to provide written comment to the NPRSB. All written comments must be received prior to July 29, 2016, and should be sent by email to *NPRSB@HHS.GOV* with "NPRSB Public Comment" as the subject line. Public comments received by close of business one week prior to each teleconference will be distributed to the NPRSB in advance.

Dated: July 5, 2016.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2016–16409 Filed 7–11–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Palliative Care: Conversations Matter® Phase Two Evaluation

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Nursing Research (NINR), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) The quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact*: Ms. Diana Finegold, Office of Communications and Public Liaison, NINR, NIH, Building 31, Suite 5B03, 31 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301) 496–0209, or Email your request, including your address to: *Diana.Finegold@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Palliative Care: Conversations Matter® Phase Two Evaluation, 0925–NEW, National Institute of Nursing Research (NINR), National Institutes of Health (NIH).

Need and Use of Information Collection: The NINR *Palliative Care: Conversations Matter®* initiative, which launched in FY 2014, is now in its second phase. The first phase was focused on providing materials and tools to assist health care providers in having sometimes difficult conversations with children and families about palliative care. The second phase of the campaign, launched in FY 2015, focuses on children, parents, and families. The *Palliative Care: Conversations Matter®* Phase Two evaluation will assess the information and materials being disseminated to children, parents, and families. Survey findings will help (1) determine if the campaign is effective, relevant, and useful to the families and caregivers of children living with serious illnesses; (2) to better understand the information needs of families and caregivers to inform future campaign efforts; and (3) examine how effective the campaign materials are in providing families and caregivers with information on palliative care.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 400 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Screener	Parents and Caregivers	10,000	1	2/60	333
Main Survey	Parents and Caregivers of Children with Serious Illnesses—Completes.	150	1	15/60	38
Main Survey	Parents and Caregivers of Children with Serious Illnesses—Non-Completes.	350	1	5/60	29
Total		10,500	10,500		400

Dated: June 29, 2016.

Diana Finegold,

Project Clearance Liaison, NINR, NIH.

[FR Doc. 2016–16438 Filed 7–11–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Rapid Assessment of Zika Virus (ZIKV) Complications (R21).

Date: August 3–4, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Andrea L. Wurster, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extrarmural Activities, Room 3G33B, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20899823, (240) 669–5062, *wurstera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 6, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16368 Filed 7–11–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Correction for Announcement of Requirements and Registration for "Up For A Challenge (U4C)—Stimulating Innovation in Breast Cancer Genetic Epidemiology"

The National Institutes of Health (NIH) is correcting a notice previously published in the **Federal Register** on June 5, 2015 (80 FR 32168) and titled "Announcement of Requirements and Registration for 'Up For A Challenge (U4C)—Stimulating Innovation in Breast Cancer Genetic Epidemiology'." The notice announced "Up For A Challenge (U4C)—Stimulating Innovation in Breast Cancer Genetic Epidemiology" (the "Challenge") to encourage unique approaches to more fully decipher the genomic basis of breast cancer.

NIH is correcting the dates for the Challenge: The Challenge Judging period from January 16, 2016–March 30, 2016 is changing to February 25, 2016–September 12, 2016 and the date for Winners Announced is changing from April 16–20, 2016 to September 12, 2016.

NIH is also correcting the prize distribution: The current notice states "The grand prize Entry will be awarded up to $30,000. The second place Entry will be awarded a runner-up prize of up to $20,000." The following addition will be made—"In the event of a tie for the grand prize, the top two scorers will each be awarded up to $20,000 and the next highest scorer will be awarded up to $10,000."

Dated: July 5, 2016.

Douglas R. Lowy,

Acting Director, National Cancer Institute, National Institutes of Health.

[FR Doc. 2016–16437 Filed 7–11–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Acquired Immunodeficiency Syndrome Research Review Committee.

Date: July 27, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Brenda L. Fredericksen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room # 3G22A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5052, *brenda.fredericksen@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 6, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–16369 Filed 7–11–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. No. 16–09]

Expansion of Global Entry Eligibility to All Citizens of the United Kingdom

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) has established the Global Entry international trusted traveler program at most major U.S. airports. Global Entry allows pre-approved participants dedicated CBP processing into the United States using Global Entry kiosks located at designated airports. In 2013, CBP announced a limited pilot program through which certain British citizens were eligible to apply for participation in the Global Entry program. This

document announces that CBP is concluding the pilot and expanding eligibility in the Global Entry program to include all British citizens with a valid United Kingdom passport documenting their British citizenship. Additionally, this document announces that certain U.S. citizens may apply for membership in Registered Traveller, the United Kingdom's registered traveler program.

DATES: Global Entry eligibility will be expanded to British citizens on July 12, 2016. Applications will be accepted beginning July 12, 2016.

FOR FURTHER INFORMATION CONTACT: Garret A. Conover, Office of Field Operations, (202) 325–4062, *Garret.A.Conover@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Global Entry Program

Global Entry is a voluntary program that allows for dedicated CBP processing of pre-approved travelers arriving in the United States at Global Entry kiosks located at designated airports. In a final rule published in the **Federal Register** (77 FR 5681) on February 6, 2012, CBP promulgated the regulation (8 CFR 235.12) to establish Global Entry as an ongoing voluntary regulatory program. Section 235.12 contains a description of the program, the eligibility criteria, the application and enrollment process, and redress procedures. Travelers who wish to participate in Global Entry must apply via the Global On-Line Enrollment System (GOES) Web site, *https://goes-app.cbp.dhs.gov,* and pay the applicable fee. Applications for Global Entry must be completed and submitted electronically. The list of airports with Global Entry kiosks is available at *http://www.globalentry.gov.*

Eligibility for participation in Global Entry is limited to U.S. citizens, U.S. nationals, U.S. lawful permanent residents, and certain nonimmigrant aliens from countries that have entered into arrangements with CBP regarding international trusted traveler programs. Specifically, certain nonimmigrant aliens from countries that have entered into arrangements with CBP concerning international trusted traveler programs may be eligible to apply for participation in Global Entry after CBP announces the arrangement by publication of a notice in the **Federal Register**. The notice will include the country, the scope of eligibility of nonimmigrant aliens from that country (*e.g.,* whether only citizens of the foreign country or citizens and non-citizens are eligible) and other conditions that may apply based on the terms of the arrangement. *See* 8 CFR 235.12(b)(1)(ii). In the preamble of the Global Entry final rule, CBP recognized the existence of previous arrangements it had with Mexico and the Netherlands regarding the international trusted traveler programs and announced that Mexican nationals and certain citizens of the Netherlands were eligible to apply for the Global Entry program. CBP further specified that Mexican nationals and citizens of the Netherlands who were existing participants in the Global Entry pilot would be automatically enrolled in the ongoing Global Entry program. CBP also stated that pursuant to a previous **Federal Register** notice,[1] participants in NEXUS and certain participants in SENTRI would still be allowed to use the Global Entry kiosks.

In a notice published in the **Federal Register** (78 FR 48706) on August 9, 2013, CBP expanded Global Entry eligibility to include citizens of the Republic of Korea who are participants in the Smart Entry System (SES), a trusted traveler program for pre-approved, low-risk travelers at designated airports in the Republic of Korea and a limited number of citizens of the State of Qatar. In the notice, CBP also announced a Global Entry pilot for a limited number of German citizens who participated in ABG Plus, Germany's former trusted traveler program.

In a notice published in the **Federal Register** (81 FR 7822) on February 16, 2016, CBP announced the conclusion of the limited pilot for German citizens and the expansion of Global Entry eligibility to include all German citizens. Additionally, this notice announced that certain U.S. citizens may apply for membership in EasyPASS, Germany's registered traveler program.

In a notice published in the **Federal Register** (80 FR 1509) on January 12, 2015, CBP expanded Global Entry eligibility to include citizens of the Republic of Panama. Additionally, the notice announced that U.S. citizens who participate in Global Entry or U.S. citizens who can utilize Global Entry kiosks as NEXUS or SENTRI participants have the option to apply for membership in Panama Global Pass, the Republic of Panama's trusted traveler program.

Limited Global Entry Pilot for Certain Citizens of the United Kingdom

In the August 9, 2013 notice referenced in the previous section, CBP also announced a limited Global Entry pilot program allowing a limited number of British citizens who frequently travel to the United States to apply for participation in Global Entry. During this limited pilot, certain British citizens who were identified as potential participants in the pilot program, received a promotional code from a British airline carrier, the U.S. Embassy, or CBP to use during the application process. These applicants were required to obtain a police certificate to be presented to a CBP officer at the time of the Global Entry interview to demonstrate that they had no criminal history. The United States and the United Kingdom limited the number of British citizens who could apply for Global Entry to allow for the development of the program's infrastructure. The notice stated that CBP expected to be able to expand eligibility to include all British citizens in the near future and that such an expansion would be announced by notice in the **Federal Register** and on *http://www.globalentry.gov.*

Expansion of Global Entry Program To Include All Citizens of the United Kingdom

This document announces that pursuant to the Joint Declaration signed by the U.S. Department of Homeland Security, CBP, and the United Kingdom Home Office, United Kingdom Border Agency of Great Britain and Northern Ireland (United Kingdom Border Agency) on June 24, 2008, CBP is expanding Global Entry eligibility to include all British citizens in accordance with the terms and conditions set forth below. As a result, CBP is concluding the limited pilot program. All pilot participants will continue their Global Entry membership for the initial five-year membership period. If pilot participants want to renew their membership when their initial Global Entry membership expires, the renewal will be subject to the terms and conditions set forth below.

Any British citizen with a valid United Kingdom passport documenting his or her British citizenship may apply for Global Entry. The terms "citizens of the United Kingdom" as used in the Joint Statement and "British citizen" as used in this notice refer to citizens of England, Northern Ireland, Scotland, and Wales.

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[1] See the Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202) for further information.

Before a British citizen can apply for Global Entry, he or she must first register to apply through the United Kingdom Home Office Web site, *www.gov.uk.* The United Kingdom charges a non-refundable £42 processing fee for registering to apply for Global Entry. This processing fee is collected by the United Kingdom to process the applicant's background check. After the applicant is thoroughly vetted for Global Entry by the United Kingdom Border Agency, the applicant will receive a UK Access Code from the United Kingdom to use to apply for Global Entry.[2]

To apply for Global Entry, the applicant will be required to complete the online application located on the GOES Web site, pay the non-refundable Global Entry fee, and satisfy all the requirements of Global Entry. During the application process, the applicant will also be required to enter the UK Access Code on the GOES Web site. If an applicant is not vetted by the United Kingdom and does not have a UK Access Code prior to applying to Global Entry, the Global Entry application will not be accepted. The applicant will be permitted to participate in Global Entry only upon successful completion of a risk assessment by CBP and completion of an interview with a CBP officer.[3] CBP will notify the applicant whether or not he or she has been accepted in the Global Entry program.

Applicants may be denied enrollment in the Global Entry program for various reasons. The eligibility criteria are set forth in detail in the Global Entry final rule and 8 CFR 235.12. *See also http://www.globalentry.gov.*

U.S. Citizens' Participation in Registered Traveller

Certain U.S. citizens who are 18 years of age or older have the option to enroll in Registered Traveller, a registered traveler program in the United Kingdom that provides expedited entry into the country via ePassport gates at border control. An ePassport is required for Registered Traveller for use at these ePassport gates. A U.S. citizen does not have to be a member of a CBP trusted traveler program to apply for Registered Traveller. However, a U.S. citizen must meet specific visa and/or travel qualifications to be eligible to apply for Registered Traveller.

Eligible U.S. applicants may apply for Registered Traveller on the United Kingdom Web site. U.S. applicants must register for Registered Traveller directly with the British Government and undergo a background check. There is a fee associated with Registered Traveller. The applicant will be notified by the United Kingdom about whether he or she is approved for Registered Traveller. More information about Registered Traveller, including the eligibility criteria and how to apply, is available at *www.gov.uk.*

Dated: July 6, 2016.

Todd C. Owen,

Executive Assistant Commissioner, Office of Field Operations.

[FR Doc. 2016–16435 Filed 7–11–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2016–0016; OMB No. 1660–0134]

Agency Information Collection Activities: Proposed Collection; Comment Request; America's PrepareAthon! National Day of Action Event Registration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the registration for events in support of America's PrepareAthon! National Day of Action. This is part of a FEMA effort to coordinate a comprehensive campaign to build and sustain national preparedness, including public outreach and community-based and private-sector programs to enhance national resilience.

DATES: Comments must be submitted on or before September 12, 2016.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2016–0016. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Samuel Hultzman, IT Program Manager, DHS/FEMA, Individual and Community Preparedness, (202) 746–9090. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: As part of 6 U.S.C. 742 and Presidential Policy Directive 8 (PPD–8): National Preparedness, the President tasked the Secretary of Homeland Security to:

> coordinate a comprehensive campaign to build and sustain national preparedness, including public outreach and community-based and private-sector programs to enhance national resilience.

The Federal Emergency Management Agency (FEMA) intends to conduct one (or more) National Day of Action, coordinated nationally by FEMA. Schools, businesses, faith-based organizations, governments at all levels, other community organizations, and families will participate in this National Day of Action by voluntarily taking part in a simultaneous multi-hazard drill and public education effort. These entities taking part in the National Day of Action register their planned events through this information collection effort. This collection was previously titled, Community Drill Day Registration and was OMB Control Number: 1660–NW79. It is now OMB Control Number 1660–0134.

Collection of Information

Title: America's PrepareAthon! National Day of Action Event Registration.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0134.

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[2] Unlike in the pilot, a British citizen does not have to obtain a police certificate to present to the CBP officer at the time of the Global Entry interview.

[3] The vetting criteria to be used by both the United Kingdom Border Agency and CBP were mutually agreed upon by both agencies and are consistent with each agency's applicable domestic laws and policies.

FEMA Forms: FEMA Form 008–0–8, America's PrepareAthon! National Day of Action Registration.

Abstract: As part of 6 U.S.C. 742 and Presidential Policy Directive 8 (PPD–8): National Preparedness, the President tasked the Secretary of Homeland Security to:

> coordinate a comprehensive campaign to build and sustain national preparedness, including public outreach and community-based and private-sector programs to enhance national resilience.

These entities taking part in the National Day of Action register their planned events through this information collection effort.

Affected Public: Individuals or households; Farms; Business or other for-profit; Federal Government; Not-for-profit institutions; State, local or Tribal Government.

Number of Respondents: 50,000.

Number of Responses: 50,000.

Estimated Total Annual Burden Hours: 15,000 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $487,830. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $332,361.86.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: July 6, 2016.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2016–16436 Filed 7–11–16; 8:45 am]

BILLING CODE 9111–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5932–N–04]

Agenda and Notice of Public Meetings of the Moving to Work Research Advisory Committee

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of a federal advisory committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of two scheduled meetings of the Moving to Work (MTW) Research Advisory Committee (Committee). The Committee meetings will be held via conference call on Tuesday, July 26, 2016, and Thursday, July 28. The meeting is open to the public and is accessible to individuals with disabilities. Pursuant to 41 CFR 102–3.150, notice for the July 26, 2016, meeting is being published fewer than 15 calendar days prior to the meeting as exceptional circumstances exist. It is imperative that the Committee hold its July 26, 2016, meeting to accommodate the scheduling priorities of key participants so that they may begin the work of the Committee. Given HUD's need for the Committee's advice, and the scheduling difficulties of selecting an alternative date, the agency deems it important for the advisory committee to meet on the July 26, 2016.

DATES: The teleconference meetings will be held on July 26, 2016, from 1:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT) and July 28, 2016 from 1:00 p.m. to 4:00 p.m. (EDT).

FOR FURTHER INFORMATION CONTACT: Laurel Davis, Department of Housing and Urban Development, Office of Public and Indian Housing, 451 7th Street SW., Room 4116, Washington, DC 20410, telephone (202) 402–5759 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877–8339 or can email: *MTWAdvisoryCommittee@hud.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2). The Moving to Work (MTW) Research Advisory Committee (Committee) was established on April 16, 2016, to advise HUD on specific policy proposals and methods of research and evaluation related to the expansion of the MTW demonstration to an additional 100 high-performing Public Housing Authorities (PHAs). See 81 FR 244630.

HUD is convening two meetings to discuss potential policies that HUD may require new MTW PHAs to test as a condition of admittance to the program. HUD will convene the first meeting on Tuesday, July 26, 2016, via teleconference from 1:00 p.m. to 4:00 p.m. (EDT). A second meeting of the Committee will convene on Thursday, July 28, 2016, via teleconference from 1:00 p.m. to 4:00 p.m. (EST). The agendas for the meetings are as follows:

Tuesday, July 26, 2016 at 1–4 p.m. EST

I. Welcome
II. Purpose and Structure of this Committee
III. Introduction of Members
IV. Meeting Management
V. Goal of the July 26th and July 28th Conference Calls
  a. Develop Guiding Principles for Discussion
VI. BREAK
VII. Discussion of Potential Policy Interventions—MTW Statutory Objective #3: Increasing Housing Choices for Low-Income Families
VIII. TIME PERMITTING: Begin Discussion of Potential Policy Interventions—MTW Statutory Objective #1: Reduce Cost and Achieve Greater Cost-Effectiveness in Federal Expenditures
IX. Public Input

Thursday, July 28, 2016 at 1–4 p.m. EST

I. Welcome
II. Review of July 26th Conference Call
  a. Goal
  b. Guiding Principles
  c. Discussion of Policies Under MTW Statutory Objective #3: Increasing Housing Choices for Low-Income Families
III. Discussion of Potential Policy Interventions—MTW Statutory Objective #1: Reduce Cost and Achieve Greater Cost-Effectiveness in Federal Expenditures
IV. BREAK
V. Discussion of Potential Policy Interventions—MTW Statutory Objective #2: Give Incentives to Families with Children Whose Heads of Household are Either Working, Seeking Work, or Participating in Job Training, Educational, or Other Programs that Assist in Obtaining Employment and Becoming Economically Self-Sufficient
VI. Public Input
VII. Next Steps

The public is invited to call-in to both meetings by using the following toll-free number in the United States: (800) 230–1766, or the following International number for those outside the United States: (612) 288–0329. Please be advised that the operator will ask callers to provide their names and their organizational affiliations (if any) prior to placing callers into the conference line. Callers can expect to incur charges for calls they initiate over wireless lines and for international calls, and HUD will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number. Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS): (800) 977–8339 and providing the FRS operator with the conference call toll-free number: (800) 230–1766.

With advance registration, members of the public will have an opportunity to provide feedback during the calls. This total amount of time for such feedback will be limited to ensure pertinent Committee business is completed, and comments will be taken on a first-come first-served basis by HUD. If the number of registered commenters exceeds the available time, HUD may ask for the submission of comments via email. In order to pre-register to provide comments, please visit the MTW Demonstration's expansion Web page at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/expansion.*

Records and documents discussed during the meeting, as well as other information about the work of this Committee, will be available for public viewing as they become available at: *http://www.facadatabase.gov/committee/committee.aspx?t=c&cid=2570&aid=77* by clicking on the "Committee Meetings" link. These materials will also be available on the MTW Demonstration's expansion Web page at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/ph/mtw/expansion.* Records generated from this meeting may also be inspected and reproduced at the Department of Housing and Urban Development Headquarters in Washington, DC, as they become available, both before and after the meeting.

Questions concerning this notice should be directed to Laurel Davis, DFO, Office of Public and Indian Housing, Department of Housing and Urban Development at *MTWAdvisoryCommittee@hud.gov.*

Dated: July 7, 2016.

Jemine A. Bryon,

General Deputy Assistant Secretary for Public and Indian Housing.

Lynn Ross,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 2016–16444 Filed 7–11–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2016–N086; FXES11120100000–167–FF01E00000]

Final Environmental Impact Statement and Final Habitat Conservation Plan for the Na Pua Makani Wind Energy Project, Oahu, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the final environmental impact statement (EIS) and final habitat conservation plan (HCP) for Na Pua Makani Power Partners, LLC's (applicant) Na Pua Makani Wind Energy Project (Project). The applicant is requesting an incidental take permit (ITP) to authorize take of one threatened and six endangered species (covered species) listed under the Endangered Species Act of 1973, as amended (ESA). If issued, the ITP would authorize incidental take of the covered species that may occur as a result of the construction and operation of the Project over a 21-year period. The HCP describes the applicant's actions and measures to minimize, mitigate, and monitor incidental take of the covered species. The final EIS has been prepared in response to the permit application in accordance with requirements of the National Environmental Policy Act (NEPA).

DATES: The Service's decision on issuance of an ITP will occur no sooner than 30 days after the publication of the U.S. Environmental Protection Agency's notice of the final EIS in the **Federal Register** and will be documented in a Record of Decision (ROD).

ADDRESSES: You may obtain copies of the final EIS and final HCP by one of the following methods.

- *Internet:* Documents may be viewed and downloaded on the Internet at *http://www.fws.gov/pacificislands/.*
- *U.S. Mail:* You may obtain a compact disk with electronic copies of these documents by writing to Mary Abrams, Field Supervisor; U.S. Fish and Wildlife Service; Pacific Islands Fish and Wildlife Office; 300 Ala Moana Boulevard, Room 3–122; Honolulu, HI 96850.
- *Telephone:* Call 808–792–9400 during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ms. Jodi Charrier (Renewable Energy Coordinator) or Mr. Aaron Nadig (Oahu, Kauai, American Samoa Geographic Deputy Field Supervisor), U.S. Fish and Wildlife Service (see **ADDRESSES** above); by telephone 808–792–9400; or by email at *NaPuaMakanihcp@fws.gov.* If you use a telecommunications device for the deaf, please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We are advising the public of the availability of the final EIS and final HCP associated with an ITP application. The applicant is requesting an ITP for a 21-year permit term to authorize take of the threatened Newell's shearwater (*Puffinus newelli*), and the endangered Hawaiian stilt (*Himantopus mexicanus knudseni*), Hawaiian coot (*Fulica americana alai*), Hawaiian moorhen, (*Gallinula chloropus sandvicensis*), Hawaiian duck (*Anas wyvilliana*), Hawaiian goose (*Branta sandvicensis*), and the Hawaiian hoary bat (*Lasiurus cinereus semotus*) that may occur as a result of the construction and operation of the Project. The final HCP describes the applicant's actions and the measures the applicant will implement to minimize, mitigate, and monitor incidental take of the covered species. Additionally, the Project would be partially located on State of Hawaii lands, triggering environmental review under the Hawaii Environmental Policy Act (HEPA) (Chapter 343 of the Hawaii Revised Statutes (HRS)).

Background

The applicant proposes to construct and operate the wind energy generation Project on approximately 707 acres of public and private lands near the town of Kahuku on the island of Oahu, Hawaii. The western portion of the Project would be located on about 255 acres of State of Hawaii lands managed by the Hawaii Department of Land and Natural Resources. The eastern portion of the Project would be located on about 452 acres of land owned by the Malaekahana Hui West, LLC. Additional parcels would be used to access the Project, for which the applicant would utilize temporary entry permits, licenses or easements.

The proposed Project would have a generating capacity of up to approximately 25 megawatts (MW) and would supply wind-generated electricity to the Hawaii Electric Company. The Project would consist of 8 to 10 wind turbine generators (WTGs), 1 permanent un-guyed lattice-frame meteorological tower, up to 4.9 miles of new and existing access roads, an operations and maintenance facility, electrical collection and interconnection infrastructure, an electrical substation, and a temporary laydown area. The applicant is considering a variety of WTG models, each ranging from 427 feet to 656 feet in height, and having up to 3.3 MW of generating capacity. The applicant will select the most appropriate WTGs prior to construction. The selection of the WTG models would not change the impacts to the covered species analyzed in the EIS.

The proposed Project area is surrounded by agricultural farm lands to the north; residential housing, community infrastructure, and agricultural farm lands to the east; a mixture of agricultural farm lands and undeveloped forest lands to the south; and undeveloped forest lands to the west. The James Campbell National Wildlife Refuge is approximately 0.75 mile to the north, and the Malaekahana State Recreation Area is 0.1 mile to the east. The operational 30–MW Kahuku wind project abuts the proposed Project area to the northwest.

Acoustic monitoring has confirmed the presence of the Hawaiian hoary bat in the vicinity of the Project site. Hawaiian hoary bats have collided with wind turbines at the 30–MW Kahuku and 69–MW Kawailoa wind projects on Oahu, and at the 30–MW Kaheawa I, 21–MW Kaheawa II, and 21–MW Auwahi wind projects on Maui. The Hawaiian goose occurs in the vicinity of the proposed Project and may collide with wind turbines as documented at Kaheawa I and II. Although there have been no known occurrences of Newell's shearwaters, Hawaiian stilts, Hawaiian coots, Hawaiian moorhens, or Hawaiian ducks colliding with wind turbines within the State of Hawaii, these covered species may transit the Project area.

The applicant has developed a final HCP that addresses the incidental take of the seven covered species that may occur as a result of the construction and operation of the Project over a period of 21 years. The final HCP details proposed measures the applicant will implement to minimize, mitigate, and monitor incidental take of the covered species. The applicant has also applied for a State of Hawaii incidental take license under Hawaii State law.

To offset anticipated take, the applicant is proposing mitigation measures on Oahu that include: (1) Funding research to support effective management of Newell's shearwaters; (2) fencing and predator control to conserve the Hawaiian goose at James Campbell National Wildlife Refuge; (3) a combination of bat research and native forest restoration and management to increase Hawaiian hoary bat habitat; (4) acoustic surveys to document occupancy of the affected area by the Hawaiian hoary bat; and (5) fencing and public outreach at Hamakua Marsh to benefit conservation of the Hawaiian stilt, Hawaiian coot, Hawaiian moorhen and the Hawaiian duck. This final HCP incorporates adaptive management provisions to allow for modifications to the mitigation and monitoring measures as knowledge is gained during implementation of the HCP.

The proposed action in the FEIS is to approve the final HCP and to issue an ITP with a term of 21 years to the applicant for incidental take of the covered species caused by covered activities associated with the construction and operation of the Project, if permit issuance criteria are met.

National Environmental Policy Act Compliance

The development of the final HCP and the proposed issuance of an ITP under this plan is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We have prepared a final EIS to analyze the environmental impacts of a range of alternatives related to the issuance of the ITP and implementation of the conservation program under the proposed final HCP. The alternatives include a no-action (alternative 1), proposed action (alternative 2), and a modified proposed action option (alternative 2a), and a larger wind energy generation project alternative (alternative 3).

Under the no-action alternative, the proposed Project would not be constructed, the proposed final HCP would not be implemented, and no ITP would be issued. The proposed action alternative is construction and operation of the Project consisting of between 8 and 10 wind turbines, implementation of the final HCP, and issuance of the ITP. In response to public comments on the draft EIS related to visual impacts and consideration of fewer turbines with larger generating capacities, a modified proposed action option with a reduced maximum number of turbines consisting of only 9 turbines with larger generating capacities and taller dimensions was added to the final EIS. The modified proposed action option also includes implementation of the final HCP, and issuance of the ITP. The larger wind energy generation project alternative would include the construction and operation of a larger generation facility of up to 42 MW. This alternative would consist of up to 12 WTGs, each with a generating capacity of up to 3.3 MW, implementation of an HCP, and issuance of the ITP.

In accordance with NEPA (40 CFR 1502.14(e)), the Service has identified the proposed action (alternative 2) including the modified proposed action option (alternative 2a) as the preferred alternative. Under NEPA, the "agency's preferred alternative" is a preliminary indication of the Federal responsible official's preference of action, which is chosen from among the alternatives analyzed in an EIS. It is the alternative which the agency believes would fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors (43 CFR 46.420(d)). The preferred alternative is not a final agency decision; rather, it is an indication of the agency's preference. The final agency decision is presented in the Record of Decision.

Public Involvement

In May 2013, the applicant began holding community meetings, small focus group meetings with stakeholders, and individual meetings with community leaders and legislators to discuss the proposed Project and engage the public in the Project's planning and design.

The Service published a notice of intent (NOI) to prepare a draft EIS in the **Federal Register** on November 5, 2013, (78 FR 66377). The NOI also announced a public scoping period (November 5 to December 5, 2013), during which we invited interested parties to provide written comments related to the proposal. A public scoping meeting was held in Kahuku, Hawaii on November 13, 2013, in accordance with NEPA (40 CFR 1501.7). Utilizing public scoping comments, we prepared a draft EIS to analyze the effects of the alternatives on the human environment. The Service published a notice of availability (NOA) of the draft EIS in the **Federal Register** on June 12, 2015 (80 FR 33535) opening a 60-day public comment period. The Service also posted the **Federal Register** NOA, Notice of Public Scoping Meeting, draft HCP, draft EIS, and a news release on their Web site at *http://www.fws.gov/pacificislands/*. A public open-house meeting was held on June 23, 2015, in Kahuku, Hawaii to solicit additional input from the public on the draft EIS and draft HCP. A total of 90 comment letters and emails were received from the public. The official comment period ended on August 11, 2015.

The State of Hawaii's environmental impact statement preparation notice (EISPN) was distributed to interested parties for review between December 23, 2013, and January 23, 2014, and again between November 8 and December 8, 2014 (republished to reflect the addition of a second access into the Project site). During the initial public scoping period for the EISPN, three public scoping meetings were held at Kahuku Community Center: on November 13, 2013, January 10, 2014, and November 19, 2014. In addition to the public meetings, a media advisory was sent out prior to each meeting. The State of Hawaii's Department of Land and Natural Resources hosted a public hearing at the Kahuku Community Center on June 4, 2015. The draft EIS was published in the State of Hawaii Office of Environmental Quality Control's *The Environmental Notice* on June 8, 2015, in accordance with requirements set forth under the Hawaii Environmental Policy Act (HRS § 343–3). Public comments were accepted during the 45-day State public comment period.

Next Steps

We will evaluate the permit application, associated documents, and public comments in reaching a final decision on whether the application meets the requirements of section 10(a) of the ESA (16 U.S.C. 1531 *et seq.*). We will evaluate whether the proposed permit action would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue an ITP. If the requirements are met, we will issue the ITP to the applicant. We will issue a record of decision and issue or deny the ITP no sooner than 30 days after publication of the U.S. Environmental Protection Agency's notice of availability of the final EIS.

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA and its implementing regulations (40 CFR 1506.6).

Theresa Rabot,

Deputy Regional Director, Pacific Region, U.S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2016–16082 Filed 7–11–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X L1109AF LLUT980300–L13100000.XZ0000–24–1A]

Utah Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act, the Bureau of Land Management's (BLM) Utah Resource Advisory Council (RAC) will host a meeting.

DATES: On July 27, the RAC will take a field tour of the Three Creeks area in Rich County, Utah from 7:00 a.m. to 7:00 p.m. Attendance is optional. On July 28, the RAC will meet from 9:00 a.m. to 4:00 p.m.

ADDRESSES: On July 28, the RAC will meet at the BLM Salt Lake Field Office, 2370 S. Decker Lake Blvd., West Valley City, Utah 84119.

FOR FURTHER INFORMATION CONTACT: If you wish to attend the field tour, contact Lola Bird, Public Affairs Specialist, Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101; phone (801) 539–4033; or, *lbird@blm.gov* no later than Wednesday, July 20, 2016.

SUPPLEMENTARY INFORMATION: Agenda topics will include the Three Creeks Grazing Allotment Environmental Assessment, Greater sage-grouse plan implementation, BLM-Utah recreation fee donation policy and the San Rafael Desert Master Leasing Plan.

A half-hour public comment period will take place on July 28 from 2:00–2:30 p.m., where the public may address the RAC. Written comments may also be sent to the BLM at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

The meeting is open to the public; however, transportation, lodging, and meals are the responsibility of the participating individuals.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to leave a message or question for the above individual. The FIRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

Authority: 43 CFR 1784.4–1.

Jenna Whitlock,

Acting State Director.

[FR Doc. 2016–16433 Filed 7–11–16; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–21382; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Museum of the American Indian, Novato, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Museum of the American Indian has completed an inventory of human remains, in consultation with the appropriate Indian tribe, and has determined that there is a cultural affiliation between the human remains and a present-day Indian tribe. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Museum of the American Indian. If no additional requestors come forward, transfer of control of the human remains to the Indian tribe stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Museum of the American at the address in this notice by August 11, 2016.

ADDRESSES: Colleen Hicks, Museum of the American Indian, P.O. Box 864, Novato, CA 94948, telephone (415) 897–4064, fax (415) 892–7804, email *office@marinindian.com.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Museum of the American Indian. The human remains were removed from Marin County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Museum of the American Indian professional staff in consultation with representatives of the Federated Indians of Graton Rancheria, California.

History and Description of the Remains

Between 1966 and 1967, human remains representing, at minimum, five individuals were removed from site CA–MRN–365, in Novato, Marin County, CA, during field school projects at the Miwok Park. The human remains are eight small fragments that were mixed with faunal collections from the site. During the excavations, several house floors were uncovered and multiple burials were removed. The human remains from these burials were repatriated and reinterred prior to the passage of NAGPRA. The faunal collection was donated to the Museum of the American Indian, and the additional human remains discussed in this notice were discovered during a reevaluation of the faunal collection between 2012 and 2014. No known individuals were identified. No associated funerary objects are present.

In 2007, human remains representing, at minimum, five individuals were removed from site CA–MRN–365, in Novato, Marin County, CA, during archeological evaluations for a building project at the Miwok Park by Tom Origer and Associates. The human remains are seven small fragments that were mixed with faunal collections from the site. The human remains were discovered during a reevaluation of the faunal collection between 2012 and 2014. No known individuals were identified. No associated funerary objects are present.

Site CA–MRN–365 is within the traditional area of the Coast Miwok Indians. It is estimated that the Miwok occupied the site for over 3000 years, though perhaps not continuously. The economy of the area was based on marsh resources with hunting and gathering in this North Coast Range area. The semi-permanent village usually had several family groups that migrated to other seasonal camps throughout the growing season. It is a multi-component site, first documented by Al Elsasser in 1961, with artifact assemblages indicating an occupation from 3000 to 500 years from present date. The site is located along a creek bed and extends about 100 feet along the bank. The site was greatly disturbed by grading for a housing project and the equipment storage area.

In 1966, human remains representing, at minimum, three individuals were removed from site CA–MRN–26, in Tiburon, Marin County, CA, during a salvage project by archeologist John McBeth. The human remains are 17 fragments found in an isolated box. In the 1970s, most of the human remains from this site were transferred to San Francisco State University. The additional human remains discussed in this notice were discovered during the evaluation of the archeological collection between 2012 and 2014. No known individuals were identified. No associated funerary objects are present.

Site CA–MRN–26 is within the traditional area of the Coast Miwok Indians. It is estimated that the Miwok occupied the area for over 3000 years, though perhaps not continuously. The economy of the area was based on marsh resources with hunting and gathering in this North Coast Range area

Prior to 1967, human remains representing, at minimum, one individual were removed from site CA–MRN–366, in Novato, Marin County, CA, in an eroded area of the creek. The human remains are a small skull fragment donated to the museum in 1967. No known individuals are present. No associated funerary objects are present.

Site CA–MRN–366 is within the traditional area of the Coast Miwok Indians. It is estimated that the Miwok occupied the area for over 3000 years, though perhaps not continuously. The economy of the area was based on marsh resources with hunting and gathering in this North Coast Range area. The semi-permanent village usually had several family groups that migrated to other seasonal camps throughout the growing season.

Prior to 1967, human remains representing, at minimum, one individual were removed from the Old Post Office site in Novato, Marin County, CA. The human remains are two fragments donated to the museum in 1967. No known individuals are present. No associated funerary objects are present.

The Old Post Office site is within the traditional area of the Coast Miwok Indians. It is estimated that the Miwok occupied the area for over 3000 years, though perhaps not continuously. The economy of the area was based on marsh resources with hunting and gathering in this North Coast Range area.

The Coast Miwok Indians are represented today by the Federated Indians of Graton Rancheria, California.

Determinations Made by the Museum of the American Indian

Officials of the Museum of the American Indian have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 15 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Federated Indians of Graton Rancheria, California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Colleen Hicks, Museum of the American Indian, P.O. Box 864, Novato, CA 94948, telephone (415) 897–4064, fax (415) 892–7804, email *office@marinindian.com,* by August 11, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Federated Indians of Graton Rancheria, California, may proceed.

The Museum of the American Indian is responsible for notifying the Federated Indians of Graton Rancheria, California, that this notice has been published.

Dated: June 24, 2016.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2016–16374 Filed 7–11–16; 8:45 am]

BILLING CODE 4312–50–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Legal Services Corporation's Board of Directors and its six committees will meet July 17–19, 2016. On Sunday, July 17, the first meeting will commence at 1:30 p.m., Eastern Daylight Time (EDT), with the meeting thereafter commencing promptly upon adjournment of the immediately preceding meeting. On Monday, July 18, the first meeting will commence at 8:30 a.m., EDT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting. On Tuesday, July 19, the first meeting will commence at 8 a.m., EDT, and will be followed by the closed session meeting of the Board of Directors which will commence promptly upon adjournment of the prior meeting.

PLACE: The Hilton Burlington Hotel, 60 Battery Street, Burlington, Vermont 05401.

Public Observation: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

Call-In Directions for Open Sessions:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately "MUTE" your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

MEETING SCHEDULE

	Time*
Sunday, July 17, 2016	
1. Audit Committee	1:30 p.m.
2. Finance Committee	
3. Board of Directors	
4. Institutional Advancement Committee	
5. Communications Subcommittee of the Institutional Advancement Committee	
Monday, July 18, 2016	
1. Operations & Regulations Committee	8:30 a.m.
2. Delivery of Legal Services Committee	
3. Governance and Performance Review Committee	
Tuesday, July 19, 2016	
1. Board of Directors	8 a.m.

STATUS: Open, except as noted below.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to hear briefings by management and LSC's Inspector General, and to consider and act on the General Counsel's report on potential and pending litigation involving LSC, and on a list of prospective funders.**

Audit Committee—Open, except that the meeting may be closed to the public to hear a briefing on the Office of Compliance and Enforcement's active enforcement matters, and a report on the integrity of electronic data. **

Institutional Advancement Committee—Open, except that the meeting may be closed to the public to discuss recommendation of new prospective donors.**

Governance and Performance Review Committee—Open, except that the meeting may be closed to the public to discuss transition planning.**

A verbatim written transcript will be made of the closed session of the Board, Institutional Advancement Committee, Audit Committee, and Governance and Performance Review Committee. The transcript of any portions of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

July 17, 2016

Audit Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's meeting on April 18, 2016
3. Review of Audit Charter
4. Update about Office of Inspector General Audit
   - John Seeba, Assistant Inspector General
5. Management update regarding risk management
   - Ron Flagg, General Counsel
6. Briefing regarding follow-up by Office of Compliance and Enforcement on referrals by the Office of Inspector General regarding audit reports and annual Independent Public audits of grantees
   - Lora Rath, Director of Compliance and Enforcement
   - John Seeba, Assistant Inspector General for Audits
7. Public comment
8. Consider and act on other business

Closed Session

9. Approval of minutes of the Committee's Closed Session meeting of April 18, 2016
10. Briefing by the Office of Compliance and Enforcement on active enforcement matter(s) and follow-up to open investigation referrals from the Office of Inspector
    - Lora Rath, Director of Compliance and Enforcement
11. Consider and act on motion to adjourn the meeting

July 17, 2016

Finance Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session Telephonic meeting on June 17, 2016
3. Discussion and review of Committee's evaluation and the Committee's goals for FY 2016
4. Presentation of LSC's Financial Report for the first eight months of FY 2016
   - David Richardson, Treasurer/Comptroller
5. Review of internal budgetary adjustments for FY 2016 Consolidated Operating Budget

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* Please note that all times in this notice are in *Eastern Daylight Time.*

** Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term "meeting" and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b(a)(2) and (b). *See also* 45 CFR 1622.2 & 1622.3.

- David Richardson, Treasurer/ Comptroller

6. Report on the FY 2017 appropriations process
   - Carol Bergman, Director of Government Relations & Public Affairs
7. Consider and act on Temporary Operating Authority for FY 2017 *Resolution 2016–XXX*
   - David Richardson, Treasurer/ Comptroller
8. Consider and act on FY 2018 Budget Request *Resolution 2016–XXX*
   - Jim Sandman, President
   - Carol Bergman, Director, Government Relations and Public Affairs
   - Jeffrey Schanz, Inspector General
9. Public comment
10. Consider and act on other business
11. Consider and act on adjournment of meeting

Institutional Advancement Committee

1. Approval of agenda
2. Approval of minutes of the Committee's meeting on April 17, 2016
3. Update on Leaders Council
   - John G. Levi, Chairman
4. Development report
   - Wendy Rhein, Chief Development Officer
5. LSC Policy on Procurements Using Private Funds
   - Wendy Rhein, Chief Development Officer
6. Public Comment
7. Consider and act on other business
8. Consider and act on motion to adjourn open session meeting and proceed to a closed session

Closed Session

9. Approval of the minutes of the Committee's Closed Session meeting on April 17, 2016
10. Development activities report
11. Consider and act on motion to approve Leaders Council invitees list
12. Consider and act on other business
13. Consider and act on motion to adjourn the meeting

July 17, 2016

Communications Subcommittee of the Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Subcommittee's meeting on April 17, 2016
3. Communications analytics update
4. Board visits to LSC programs
   - John G. Levi, Chairman of the Board
   - Julie Reiskin, Subcommittee Chair
5. Youth Brochure Julie Reiskin, Subcommittee Chair
6. Public comment
7. Consider and act on other business
8. Consider and act on motion to adjourn the meeting

July 18, 2016

Operations & Regulations Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's meeting on April 18, 2016
3. Consider and act on revised population estimates for grants to serve agricultural workers
   - Ron Flagg, General Counsel
   - Bristow Hardin, Program Analyst, Office of Data Governance and Analysis
   - Carlos A. Manjarrez, Director, Office of Data Governance and Analysis
   - Mark Freedman, Senior Associate General Counsel
4. Report on additional uses of recovered grant funds beyond emergency grants in federally-declared disaster areas
   - Jim Sandman, President
   - Janet LaBella, Director, Office of Program Performance
   - Mark Freedman, Senior Associate General Counsel
5. Report on 2017 Grant Assurances
   - Jim Sandman, President
6. Report on LSC Rulemaking Timeline
   - Ron Flagg, General Counsel
   - Stefanie Davis, Assistant General Counsel
7. Update on Rulemaking Workshops for 45 CFR part 1630—Cost Standards and the Property Acquisition and Management Manual
   - Ron Flagg, General Counsel
   - Stefanie Davis, Assistant General Counsel
8. Update on Further Notice of Proposed Rulemaking for 45 CFR 1610.7—Transfers of LSC Funds and 45 CFR part 1627—Subgrants and Membership Fees or Dues
   - Ron Flagg, General Counsel
   - Stefanie Davis, Assistant General Counsel
9. Consider and act on Justification Memo for 45 CFR part 1609—Fee Generating Cases
   - Stefanie Davis, Assistant General Counsel
   - Davis Jenkins, Graduate Fellow
10. Report on Program Letters regarding (a) Electronic Signatures and (b) Automated Systems for Financial-Eligibility Information Collection and Screening
    - Jim Sandman, President
11. Public comment
12. Consider and act on other business
13. Consider and act on motion to adjourn meeting

July 18, 2016

Delivery of Legal Services Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's meeting on April 18, 2016
3. Update on Client Participation in Program Quality Visit Pilot Project
   - Janet LaBella, Director, Office of Program Performance
4. Performance Criteria revision update
   - Lynn Jennings, Vice President Grants Management
5. Panel Presentation on and Committee discussion of service delivery models: Performance Area 4, Criteria 8
   - Tom Garrett, Executive Director, Vermont Legal Aid
   - Nan Heald, Executive Director, Pine Tree Legal Assistance
   - Breckie Hayes-Snow, Executive Director Legal Advice & Referral Center
   - Lynn Jennings, Vice President for Grants Management (Moderator)
6. Public comment
7. Consider and act on other business
8. Consider and act on motion to adjourn the meeting

Governance and Performance Review Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of April 18, 2016
3. Report on foundation grants and LSC's research agenda
   - Jim Sandman, President
4. Report on transition planning
   - White House Transition—Carol Bergman, Director Government Relations & Public Affairs
   - Board Transition—Ron Flagg, Vice President & General Counsel
5. Consider and act on Resolution to change title and to promote Carol A. Bergman: Vice President, Government Relations & Public Affairs in place of Director of Government Relations & Public Affairs
   - Jim Sandman, President
6. Other business
7. Public Comment
8. Consider and act on motion to adjourn open session meeting and proceed to a closed session

Closed Session

9. Discussion regarding transition planning coordination with other non-governmental organization
10. Consider and act on motion to adjourn meeting

July 17 and 19, 2016

Board of Directors

Open Session—July 17th

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Open Session meeting of April 18, 2016 and April 19, 2016
4. Approval of minutes of the Board's Open Session telephonic meeting of May 24, 2016
5. Consider and act on revisions to the LSC 2017—2020 Strategic Plan
6. Consider and act on motion to recess the meeting to July 19th

Open Session—July 19th

7. Chairman's Report
8. Members' Report
9. President's Report
10. Inspector General's Report
11. Consider and act on the report of the Finance Committee
12. Consider and act on the report of the Audit Committee
13. Consider and act on the report of the Operations and Regulations Committee
14. Consider and act on the report of the Governance and Performance Review Committee
15. Consider and act on the report of the Institutional Advancement Committee
16. Consider and act on the report of the Delivery of Legal Services Committee
17. Consider and act on Resolution Recognizing Abner J. Mikva
18. Public Comment
19. Consider and act on other business
20. Consider and act on motion to adjourn the open session meeting and proceed to a closed session

Closed Session

21. Approval of minutes of the Board's Closed Session meeting of April 19, 2016
22. Management briefing
23. Inspector General briefing
24. General Counsel's briefing on potential and pending litigation involving LSC
25. Consider and act on list of prospective funders
26. Consider and act on motion to adjourn meeting

CONTACT PERSON FOR MORE INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC Web site, at *http://www.lsc.gov/board-directors/meetings/board-meeting-notices/non-confidential-materials-be-considered-open-session.*

Accessibility: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: July 8, 2016.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 2016–16568 Filed 7–8–16; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (16–052)]

NASA Advisory Council; Science Committee; Heliophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Heliophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, August 8, 2016, 9:00 a.m.–5:00 p.m.; and Tuesday, August 9, 2016, 9:00 a.m.–5:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 6H41, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting will also be available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any person interested in joining the meeting may dial the USA toll free conference call number 1–888–810–8156, and then the numeric participant passcode: 2158644 followed by the # sign, for both days. If dialing in, please "mute" your phone. The WebEx link is *https://nasa.webex.com/;* the meeting number is 995 036 500 and the password is HPS2016! (case sensitive) for both days. The agenda for the meeting includes the following topics:

—Heliophysics Division Overview
—Flight Mission Status Report
—Heliophysics Science Performance Assessment
—High-End Computing

Attendees will be required to sign a register and comply with NASA Headquarters security requirements, including the presentation of a valid picture ID before receiving access to NASA Headquarters. Due to the Real ID Act, Public Law 109–13, any attendees with driver's licenses issued from non-compliant states/territories must present a second form of ID. [Federal employee badge; passport; active military identification card; enhanced driver's license; U.S. Coast Guard Merchant Mariner card; Native American tribal document; school identification accompanied by an item from LIST C (documents that establish employment authorization) from the "List of the Acceptable Documents" on Form I–9.] Non-compliant states/territories are: American Samoa, Minnesota, Missouri and Washington. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship and Permanent

Residents (green card holders) can provide full name and citizenship status 3 working days in advance by contacting Ms. Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–2779. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2016–16367 Filed 7–11–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIME AND DATE: The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Thursday, July 28, 2016, 9 a.m.—4:15 p.m. (Central Time), and on Friday, July 29, 2016, 9 a.m.—12:30 p.m. (Central Time) in Minneapolis, Minnesota.

PLACE: This meeting will occur in the Bergen I Meeting Room, Radisson Blu Downtown Minneapolis at 35 South 7th Street, Minneapolis, Minnesota 55402. Interested parties are welcome to join in person or by phone in a listening-only capacity (other than the period allotted for public comment noted below) using the following call-in number: 888–510–1765; Conference ID: 5785469; Conference Title: NCD Meeting; Host Name: Clyde Terry.

MATTERS TO BE CONSIDERED: The Council will receive an update on the mental health in postsecondary education report; as well as hear policy presentations on the topics of the connection between disability and poverty; economic mobility gridlock for people with disabilities; the direct care workforce; and what a system designed to help people with disabilities out of poverty would look like. The Council will receive public comment during three town halls, on the topics of disability and poverty; economic mobility gridlock for people with disabilities; and what a system designed to help people with disabilities out of poverty would look like. The Council will also receive reports from its standing committees; and discuss policy priorities for the next fiscal year. The Council is expected to vote on a final draft of the 2016 Progress Report as well as its slate of policy priorities for the next fiscal year.

Agenda: The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Central):

Thursday, July 28

9–9:30 a.m.—Call to Order, Welcome and Introductions
9:30–10:15 a.m.—Update on the Mental Health in Postsecondary Education Report
10:15–10:30 a.m.—Break
10:30–11:15 a.m.—Connection between Disability and Poverty Panel
11:15–11:45 a.m.—Town Hall to Receive Comments on Disability and Poverty 11:45 a.m.–12:45 p.m.—Lunch Break
12:45–1:30 p.m.—Economic Mobility Gridlock: Systemic Challenges & Incompatibilities, & Contradictions Panel
1:30–2 p.m.—Town Hall to Receive Comments on Economic Mobility Gridlock: Systemic Challenges & Incompatibilities, & Contradictions
2–2:15 p.m.—Break
2:15–3 p.m.—Direct Care Workforce Panel
3–3:45 p.m.—What would a system look like if it was designed to get person with a disability out of poverty? Panel
3:45–4:15 p.m.—Town Hall to Receive Comments on What would a system look like if it was designed to get person with a disability out of poverty?
4:15 p.m.–Adjourn

Friday, July 29

9–11:15 a.m.—Council Discussion of Proposed Priorities
11:15–11:30 a.m.—Break
11:30 a.m.–12:30 p.m.—NCD Business Meeting
12:30 p.m.–Adjournment

Public Comment: To better facilitate NCD's public comment, any individual interested in providing public comment is asked to register his or her intent to provide comment in advance by sending an email to *PublicComment@ncd.gov* with the subject line "Public Comment" with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. All emails to register for public comment at the quarterly meeting must be received by Wednesday, July 27, 2016. Priority will be given to those individuals who are in-person to provide their comments during the town hall portions of the agenda. Those commenters on the phone will be called on according to the list of those registered via email. Due to time constraints, NCD asks all commenters to limit their comments to three minutes. Comments received at the quarterly meeting will be limited to those regarding what a system would look like if it was designed to get person with a disability out of poverty; economic mobility gridlock; and the connection between disability and poverty, each during its respective slot of time for the themed town hall as previously noted in the agenda.

Accommodations: A CART streamtext link has been arranged for this teleconference meeting. The web link to access CART on Thursday, July 28, 2016 is: *https://www.streamtext.net/player?event=072816ncd900am;* and on Friday, July 29, 2016 is: *https://www.streamtext.net/player?event=072916ncd900am.*

Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements. To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person refrain from wearing scented personal care products such as perfumes, hairsprays, and deodorants.

CONTACT PERSON FOR INFORMATION: Anne Sommers, NCD, 1331 F Street, NW., Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

Dated: July 7, 2016.

Rebecca Cokley,

Executive Director.

[FR Doc. 2016–16539 Filed 7–8–16; 11:15 am]

BILLING CODE 8421–03–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Determination of the Chairperson of the National Endowment for the Arts Regarding Potential Closure of Portions of Meetings of the National Council on the Arts

Section 20 U.S.C. 955 (f) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*) authorizes the National Council on the Arts to review applications for financial assistance to the National Endowment for the Arts and make recommendations to the Chairperson.

The Federal Advisory Committee Act (FACA), as amended (Pub. L. 92–463), governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise and assist the Federal Government. Section 10 of that Act directs meetings of advisory committees to be open to the public, except where the head of the agency to which the advisory committee reports determines in writing that a portion of a meeting may be closed to the public consistent with subsection (c) of section 552b of Title 5, United States Code (the Government in the Sunshine Act).

It is the policy of the National Endowment for the Arts that meetings of the National Council on the Arts be conducted in open session including those parts during which recommendations for funding are considered. However, in recognition that the National Endowment for the Arts is required to consider the artistic excellence and artistic merit of applications for financial assistance and that consideration of individual applications may require a discussion of matters such as an individual artist's abilities, reputation among colleagues, or professional background and performance, I have determined to reserve the right to close limited portions of Council meetings if such information is to be discussed. The purpose of the closure is to protect information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. Closure for this purpose is authorized by subsection (c)(6) of section 552b of Title 5, United States Code.

Additionally, the Council will consider prospective nominees for the National Medal of Arts award in order to advise the President of the United States in his final selection of National Medal of Arts recipients. During these sessions, similar information of a personal nature will be discussed. As with applications for financial assistance, disclosure of this information about individuals who are under consideration for the award would constitute a clearly unwarranted invasion of personal privacy.

Therefore, in light of the above, I have determined that those portions of Council meetings devoted to consideration of prospective nominees for the National Medal of Arts award may be closed to the public. Closure for these purposes is authorized by subsections (c)(6) of section 552b of Title 5, United States Code.

All other portions of the meetings of the National Council on the Arts shall be open to the public unless the Chairperson of the National Endowment for the Arts or a designee determines otherwise in accordance with section 10(d) of the Act.

Further, in accordance with the FACA, the Panel Coordinator shall be responsible for publication in the **Federal Register** of a notice of all advisory committee meetings including the intent to close any portion of the Council meeting. Such notice shall be published in advance of the meetings and contain:

1. Name of the committee and its purposes;
2. Date and time of the meeting, and, if the meeting is open to the public, its location and agenda; and
3. A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect.

A record shall be maintained of any closed portion of the Council meeting.

The Office of the Chief of Staff is designated as the office from which lists of committee members may be obtained and from whom minutes of open meetings or open portions thereof may be requested. On July 5, 2016, Chairman of the National Endowment for the Arts Jane Chu, approved the determination to close the meetings.

Dated: July 7, 2016.

Kathy Plowitz-Worden,

Committee Management Officer.

[FR Doc. 2016–16407 Filed 7–11–16; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Determination of the Chairperson of the National Endowment for the Arts Regarding Closure of Portions of Meetings of Advisory Committees (Advisory Panels)

Section 20 U.S.C. 959(c) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*) requires the Chairperson of the National Endowment for the Arts to utilize advisory panels to review applications for financial assistance to the National Endowment for the Arts and make recommendations to the Chairperson.

The Federal Advisory Committee Act (FACA), as amended (Pub. L. 92–463), governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise and assist the Federal Government. Section 10 of that Act directs meetings of advisory committees to be open to the public, except where the head of the agency to which the advisory committee reports determines in writing that a portion of a meeting may be closed to the public consistent with subsection (c) of section 552b of Title 5, United States Code (the Government in the Sunshine Act).

It is the policy of the National Endowment for the Arts to make the fullest possible disclosure of records to the public, limited only by obligations of confidentiality and administrative necessity. In recognition that the National Endowment for the Arts is required to consider the artistic excellence and artistic merit of applications for financial assistance and that consideration of individual applications may require a discussion of matters such as an individual artist's abilities, reputation among colleagues, or professional background and performance, I have determined to reserve the right to close the portions of advisory committee meetings involving the review, discussion, evaluation, and ranking of grant applications. The purpose of the closure is to protect information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. Closure for this purpose is authorized by subsection (c)(6) of section 552b of Title 5, United States Code.

All other portions of the meetings of these advisory committees shall be open to the public unless the Chairperson of the National Endowment for the Arts or a designee determines otherwise in accordance with section 10(d) of the Act.

Further, in accordance with FACA, the Panel Coordinator shall be responsible for publication in the **Federal Register** of a notice of all advisory committee meetings. Such notice shall be published in advance of the meetings and contain:

1. Name of the committee and its purposes;
2. Date and time of the meeting, and, if the meeting is open to the public, its location and agenda; and
3. A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect.

A record shall be maintained of any closed portions of panel meetings.

The Panel Coordinator is designated as the person from whom lists of committee members may be obtained and from whom minutes of open meetings or open portions thereof may be requested. On July 5, 2016, Chairman of the National Endowment for the Arts Jane Chu, approved the determination to close the meetings.

Dated: July 7, 2016.

Kathy Plowitz-Worden,

Committee Management Officer.

[FR Doc. 2016–16408 Filed 7–11–16; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that three meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

DATES: All meetings are Eastern time and ending times are approximate:

Research (review of applications): This meeting will be closed.

Date and time: August 1, 2016; 2:00 p.m. to 4:00 p.m.

Literature (review of applications): This meeting will be closed.

Date and time: August 3, 2016; 3:00 p.m. to 5:00 p.m.

Literature (review of applications): This meeting will be closed.

Date and time: August 4, 2016; 3:00 p.m. to 5:00 p.m.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC, 20506.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506; *plowitzk@arts.gov,* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of July 5, 2016, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

Dated: July 7, 2016.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts

[FR Doc. 2016–16405 Filed 7–11–16; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Establish an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by September 12, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays). You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for NSF Prediction of and Resilience against Extreme Events (PREEVENTS) Track 1 (Conference) Awards.

OMB Number: 3145–NEW.

Expiration Date of Approval: Not applicable.

Type of Request: Intent to seek approval to establish an information collection.

Overview of this Information Collection: NSF and the Directorate for Geosciences (GEO) have long supported basic research in scientific and engineering disciplines necessary to understand natural hazards and extreme events. The Prediction of and Resilience against Extreme Events (PREEVENTS) program is one element of the NSF-wide Risk and Resilience activity, which has the overarching goal of improving predictability and risk assessment, and increasing resilience, in order to reduce the impact of extreme events on our life, society, and economy. PREEVENTS provides an additional mechanism to support research and related activities that will improve our understanding of the fundamental processes underlying natural hazards and extreme events in the geosciences.

PREEVENTS is intended to encourage new scientific directions in the domains of natural hazards and extreme events. PREEVENTS will consider proposals for conferences that will foster development of interdisciplinary or multidisciplinary communities required to address complex questions surrounding natural hazards and extreme events. Such proposals are called PREEVENTS Track 1 proposals.

In addition to standard NSF annual and final report requirements, PIs for all PREEVENTS Track 1 awards will be required to submit to NSF a public report that summarizes the conference activities, attendance, and outcomes; describes scientific and/or technical challenges that remain to be overcome in the areas discussed during the conference; and identifies specific next steps to advance knowledge in the areas of natural hazards and extreme events that were considered during the conference. These reports will be made publicly available via the NSF Web site, and are intended to foster nascent interdisciplinary or multidisciplinary communities and to enable growth of new scientific directions.

Use of the Information: NSF will use the information to understand and evaluate the outcomes of the conference, to foster growth of new scientific communities, and to evaluate the progress of the PREEVENTS program.

Estimate of Burden: 40 hours per award for 5–10 conference awards for a total of 200–400 hours.

Respondents: Universities and Colleges; Non-profit, non-academic organizations; For-profit organizations; NSF-funded Federally Funded Research and Development Centers (FFRDCs).

Estimated Number of Responses per Report: One from each five to ten Track 1 awardees.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: July 7, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–16440 Filed 7–11–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 81 FR 20688 and four comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

Comments: Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725–17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Comments: As required by 5 CFR 1320.8(d), comments on the information collection activities as part of this study were solicited through publication of a 60-Day Notice in the **Federal Register** on January 11, 2016, at 81 FR 20688. Four comments were received, to which we here respond. One comment came from the Federation of American Societies for Experimental Biology. They expressed support for the survey, stating that it is a unique data resource that they often use in development of their own reports and factsheets. They wrote that the utility of the survey would be enhanced if it were available on a more frequent basis and if the data were available more rapidly. NSF understands that data users need more timely data and thus we continually look for procedural changes to reduce the time required to collect and publish the data. Our changes have resulted in the survey data being published by November each year, approximately 6 months following the close of the survey and data follow up activities. Previously the data were not published until the spring of the following year, or one year following the official close of the survey. We plan to continue looking for ways to improve the timeliness of the survey data release, but we have no plans to survey institutions more frequently than annually at this time.

The second comment came from Jason Owen-Smith, Executive Director, Institute for Research on Innovation & Science (IRIS) at the University of Michigan. He expressed support for the survey and asked NSF to consider linking the administrative data maintained by IRIS into the HERD survey data to increase the survey data's utility. NSF is very interested in the administrative data maintained by IRIS and was an active participant in the Star Metrics project (predecessor of UMetrics). We will contact Dr. Owen-Smith to discuss the possibilities for data linking in the coming year.

The third comment came from Marc Kastner, President of the Science Philanthropy Alliance. He expressed support for the survey and requested more data on the amount of funding devoted to basic research versus applied research. Currently the survey does measure the split between basic research, applied research and experimental development by overall federal and nonfederal totals. We have no plans to expand the survey to obtain this split by all sources of funding or field due to the burden that would place on universities in responding to the survey.

A fourth comment came from the Bureau of Economic Analysis (BEA). They expressed general support for the survey and requested a few additional data elements to be considered for future collection. NSF is in regular contact with BEA about their data needs and the feasibility of adding questions to the HERD or FFRDC Surveys to address these needs. As part of the survey redesign, NSF added several items requested by BEA to the questionnaire, where the additional detail posed no significant increase in burden for the institutions. NSF will continue to consider additional items in future years while still prioritizing respondent burden. There are no plans to incorporate these data items on the HERD or FFRDC Surveys for FY 2016.

Title of Collection: Higher Education Research and Development Survey

OMB Approval Number: 3145–0100.

Expiration Date of Current Approval: September 30, 2016.

Summary of Collection: The Higher Education Research and Development (R&D) Survey (formerly known as the Survey of R&D Expenditures at Universities and Colleges) originated in fiscal year (FY) 1954 and has been conducted annually since FY 1972. The survey represents one facet of the higher education component of the NSF's National Center for Science and Engineering Statistics (NCSES) statistical program authorized by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950 (NSF Act), as amended, at 42 U.S.C. 1862. Under paragraph "b", NCSES is directed to "(1) collect, acquire, analyze, report, and disseminate statistical data related to the science and engineering enterprise in the U.S. and other nations that is relevant and useful to practitioners, researchers, policymakers, and the public, including statistical data on

(A) research and development trends;

(B) the science and engineering workforce;

(C) U.S. competitiveness in science, engineering, technology, and research and development. . .''

Use of the information: The proposed project will continue the annual survey cycle for three years. The Higher Education R&D Survey will provide continuity of statistics on R&D expenditures by source of funding, type of R&D (basic research, applied research, or development), and field of R&D, with separate data requested on research equipment by field. Further breakdowns are collected on funds passed through to subrecipients and funds received as a subrecipient, and on R&D expenditures by field from specific federal agency sources. As of FY 2010, the survey also requests total R&D expenditures funded from foreign sources, R&D within an institution's medical school, clinical trial expenditures, R&D by type of funding mechanism (contracts vs. grants), and R&D by cost category (salaries, equipment, software, etc.). The survey also requests headcounts of principal investigators and other personnel paid from R&D funds.

Data are published in NSF's annual publication series *Higher Education Research and Development,* available on the web at *http://www.nsf.gov/statistics/srvyherd/.*

Expected respondents: The FY 2016 Higher Education R&D Survey will be administered to approximately 700 institutions. In addition, a shorter version of the survey asking for R&D expenditures by source of funding and broad field will be sent to approximately 300 institutions spending under $1 million on R&D in their previous fiscal year. We also expect approximately 150 institutions to respond to the population screener form sent to determine eligibility for the survey. Finally, a survey requesting R&D expenditures by source of funds, cost categories, and type of R&D will be administered to the 42 Federally Funded Research and Development Centers.

Estimate of burden: The survey is a fully automated web data collection effort and is handled primarily by administrators in university sponsored programs and accounting offices. To minimize burden, institutions are provided with an abundance of guidance and resources on the web, and are able to respond via downloadable spreadsheet if desired. Each institution's record is pre-loaded with the 2 previous years of comparable data that facilitate editing and trend checking. Response to this voluntary survey has exceeded 95 percent each year.

The average burden estimate is 1 hour for the approximately 150 institutions responding to the population screener form, 55 hours for the approximately 700 institutions reporting over $1 million in R&D expenditures on the standard form, 8 hours for the approximately 300 institutions reporting less than $1 million on the short form, and 12 hours for the 42 organizations completing the FFRDC survey. The total calculated burden across all forms is 40,812 hours.

Dated: July 6, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–16421 Filed 7–11–16; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78236; File No. SR–BatsBZX–2016–26]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of Proposed Rule Change to BZX Rule 14.11(d) To Add the EURO STOXX 50® Volatility Futures to the Definition of Futures Reference Asset

July 6, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 14.11(d) in order to add the EURO STOXX 50® Volatility (VSTOXX®) Futures (''VSTOXX Futures'') to the definition of Futures Reference Asset.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Commission has approved the listing of debt securities known as Linked Securities[3] and, in particular, Futures-Linked Securities, which are Linked Securities with a payment at maturity based on the performance of a Futures Reference Asset,[4] including listing pursuant to Rule 19b–4(e) under Rule 14.11(d)(2).[5] Rule 19b–4(e)[6] under the Act provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to section (c)(1) of Rule 19b–4,[7] if the Commission has approved, pursuant to Section 19(b) of the Act,[8] the SRO's trading rules, procedures, and listing standards for the product class and the SRO has a surveillance program for the product class.[9]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in Rule 14.11(d), ''Linked Securities'' includes Multifactor Index-Linked Securities, Equity Index-Linked Securities, Commodity-Linked Securities, Fixed Income Index-Linked Securities, and Futures-Linked Securities.

[4] As defined in Rule 14.11(d), ''Futures Reference Asset'' includes ''an index of (a) futures on Treasury Securities, GSE Securities, supranational debt and debt of a foreign country or a subdivision thereof, or options or other derivatives on any of the foregoing; or (b) interest rate futures or options or derivatives on the foregoing in this subparagraph (b); or (c) CBOE Volatility Index (VIX) Futures.''

[5] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) (Order Approving Proposed Rule Change to Adopt Rules for the Qualification, Listing and Delisting of Companies on the Exchange) (the ''Approval Order''). The Approval Order approved the rules permitting the listing of both Tier I and Tier II securities on the Exchange and the requirements associated therewith, which includes, among others, the listing and trading of Linked Securities, trading hours and halts, and listing fees originally applicable to Linked Securities.

[6] 17 CFR 240.19b–4(e).

[7] 17 CFR 240.19b–4(c)(1).

The Exchange proposes to amend Rule 14.11(d) in order to add VSTOXX Futures to the definition of Futures Reference Asset, which would allow the Exchange to list Futures-Linked Securities linked to VSTOXX Futures through generic listing standards pursuant to Rule 19b–4(e) under BZX Rule 14.11(d)(2)(K)(iv).

Rule 14.11(d)(2)(K)(iv)(a) requires that a Futures-Linked Security meet one of the following standards: (1) That the Futures Reference Asset to which the security is linked shall have been reviewed and approved for the trading of Futures-Linked Securities or options or other derivatives by the Commission under Section 19(b)(2) of the Act and rules thereunder and the conditions set forth in the Commission's approval order, including with respect to comprehensive surveillance sharing agreements, continue to be satisfied; or (2) the pricing information for components of a Futures Reference Asset must be derived from a market which is a member or affiliate of a member of the Intermarket Surveillance Group ("ISG") or a market with which the Exchange has a comprehensive surveillance sharing agreement ("CSSA").[10] A Futures Reference Asset may include components not representing more than 10% of the dollar weight of such Futures Reference Asset for which the pricing information is derived from markets that do not meet requirement (2); provided, however, that no single component subject to this exceptions [sic] exceeds 7% of the dollar weight of the Futures Reference Asset. As proposed, adding VSTOXX Futures to the definition of Futures Reference Asset would satisfy the first criterion described above and the second criterion would be satisfied by virtue of Eurex Deutschland's membership in ISG, as further described below.

Further, any Futures-Linked Securities linked to VSTOXX Futures would also be required to meet both the initial and continued listing standards under Rule 14.11(d)(2)(K)(iv)(b) and (c) or be subject to delisting or removal proceedings, which include: (i) That the value of the Futures Reference Asset be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; (ii) for Futures-Linked Securities that are periodically redeemable, the Intraday Indicative Value of the securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; (iii) the aggregate market value or the principal amount of the Futures-Linked Securities must be at least $400,000; (iv) the value of the VSTOXX Futures must be calculated and available; and (v) any other event occurs or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable. Any Futures-Linked Securities linked to VSTOXX Futures would also be required to meet the listing standards applicable to all Linked Securities under 14.11(d)(2). Finally, all Linked Securities listed pursuant to Rule 14.11(d) are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange and, as such, are subject to the full panoply of Exchange Rules and procedures that currently govern the trading of securities on the Exchange.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Linked Securities. Additionally, the Exchange believes that the existing standards for listing and trading Futures-Linked Securities are reasonably designed to promote a fair and orderly market for such Futures-Linked Securities and the addition of VSTOXX Futures to Futures Reference Assets does not affect this. The proposed addition of VSTOXX Futures to those instruments included in Futures Reference Assets would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading guidelines.

The Exchange believes that its surveillance procedures are adequate to continue to properly monitor the trading of the Futures-Linked Securities linked to VSTOXX Futures in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which includes Linked Securities, to monitor trading in the Futures-Linked Securities. The issuer of a series of Linked Securities is and will continue to be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Linked Securities, as provided under Rule 14.11(d)(2)(F). The Exchange notes that the proposed change is not intended to amend any other component or requirement of Rule 14.11(d).

VSTOXX

The information in this filing relating to the VSTOXX was taken from the Web site of STOXX Limited ("STOXX"). The VSTOXX was originally developed by STOXX in 2005 and is based on EURO STOXX 50 Index real-time option prices that are listed on the Eurex Deutschland ("Eurex") and are designed to reflect the market expectations of near-term up to long-term volatility by measuring the square root of the implied variances across all options of a given time to expiration. The EURO STOXX 50 Index, Europe's leading Blue-chip index for the Eurozone, provides a blue-chip representation of super sector leaders in the Eurozone. The index covers 50 stocks from 12 Eurozone countries: Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and Spain.

The model for VSTOXX aims at making pure volatility tradable—*i.e.* it should be possible to replicate the indices with an options portfolio which does not react to price fluctuations, but to changes in volatility only. The VSTOXX does not measure implied volatilities of at-the-money EURO STOXX 50 Index options, but the implied variance across all options of a given time to expiry. A portfolio of EURO STOXX 50 Index options with different exercise price and weighting meets this goal: the implied volatilities of all eligible options with a given time to expiry are considered. The VSTOXX is calculated using a series of sub-indices that are based on put and call options on the EURO STOXX in eight expiry months with a maximum time to expiry of two years in order to bracket a 30-day calendar period. The VSTOXX is calculated using linear interpolation of the sub-indices whose times to expiration closely surround the targeted fixed time to expiry. If there are no such surrounding sub-indices, the VSTOXX is calculated by extrapolation of two sub-indices with closest time to expiry. Because the calculation relies on two sub-indices, VSTOXX is independent of a specific time to expiry, which helps to eliminate effects that typically result in strong volatility fluctuations close to expiry.

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[8] 15 U.S.C. 78s(b).

[9] See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

[10] ISG is comprised of an international group of exchanges, market centers, and market regulators that perform front-line market surveillance in their respective jurisdictions. *See https://www.isgportal.org/home.html.*

STOXX will compute the index on a real-time basis throughout each trading day, from 8:50 a.m. until 5:30 p.m. Central European Time ("CET") (3:50 a.m. until 12:30 p.m. Eastern Time ("ET")). VSTOXX levels will be calculated by STOXX and disseminated by major market data vendors such as Bloomberg and Thomson Reuters.

VSTOXX Futures

Additional information regarding the VSTOXX Futures can be found on the Eurex Web site. Eurex[11] began listing and trading VSTOXX Futures in June 2009 under the ticker symbol FVS. VSTOXX Futures are cash settled and trade between the hours of 7:30 a.m. and 10:30 p.m. CET (2:30 a.m. and 5:30 p.m. ET). The VSTOXX Futures contract value is 100 Euros per index point of the underlying and it is traded to two decimal places with a minimum price change of 0.05 points (equivalent to a value of 5 Euros). The daily settlement price is determined during the closing auction of the respective futures contract. The last trading day and final settlement day is 30 calendar days prior to the third Friday of the expiration month of the underlying options, which is usually the Wednesday prior to the second to last Friday of the respective maturity month.

The monthly volume and open interest, in USD, as of the last day of each month in 2015 for the VSTOXX Futures was as follows:

	Monthly volume (USD)	Open interest (USD)
Jan-15 ...	1,916,437,601	486,772,067
Feb-15 ..	1,126,070,071	409,419,303
Mar-15 ..	1,318,852,657	414,012,733
Apr-15 ...	1,484,997,987	451,249,212
May-15 ..	1,236,975,400	426,194,591
Jun-15 ...	1,952,524,278	588,991,482
Jul-15	1,658,790,585	575,821,234
Aug-15 ..	1,269,161,197	469,785,978
Sep-15 ..	2,059,860,768	684,640,331
Oct-15 ...	1,354,413,865	600,708,025
Nov-15 ..	1,239,076,845	397,025,249
Dec-15 ..	15,350,681,777	276,743,850

Both in the numbers shown above and throughout the history of VSTOXX Futures, the monthly trading volume and open interest in VSTOXX Futures has, subject to natural fluctuation in the market, continued to grow. The Exchange notes that the monthly trading volume in the VSTOXX Futures is very similar to the trading volume of the CBOE Volatility Index® (VIX®) Futures prior to NYSE Arca, Inc. adding the VIX Futures to the definition of futures reference asset in its comparable rule,[12] which, as noted above, the Exchange also added to its rules related to Futures-Linked Securities. Much like the Futures-Linked Securities linked to the VIX Futures, Futures-Linked Securities linked to the VSTOXX Futures will provide investors with the ability to better diversify and hedge their portfolios using an exchange listed security without having to trade directly in the underlying futures contracts.

As such, the Exchange believes that the proposed amendment to add VSTOXX Futures as an underlying Futures Reference asset will facilitate the listing and trading of an additional Futures-Linked Security that will enhance competition among market participants, to the benefit of investors and the marketplace.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[13] in general and Section 6(b)(5) of the Act[14] in particular in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is designed to promote just and equitable principles of trade, to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of Futures-Linked Securities that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in Futures-Linked Securities and may obtain information regarding both the Futures-Linked Securities and VSTOXX Futures via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information on an intraday basis regarding: (i) The value of the Futures Reference Asset, which will be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; (ii) for Futures-Linked Securities that are periodically redeemable, the Intraday Indicative Value of the securities, which must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; and (iii) information regarding market price and trading of Futures-Linked Securities will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the securities will be available on the facilities of the CTA.

Further, any Futures-Linked Securities linked to VSTOXX Futures would be required to meet both the initial and continued listing standards, including certain of those named above, under Rule 14.11(d)(2)(K)(iv)(b) and (c) or be subject to delisting or removal proceedings, which include: (i) That the value of the Futures Reference Asset be calculated and widely disseminated by one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; (ii) for Futures-Linked Securities that are periodically redeemable, the Intraday Indicative Value of the securities must be calculated and widely disseminated by the Exchange or one or more major market data vendors on at least a 15-second basis during the Exchange's regular market session; (iii) the aggregate market value or the principal amount of the Futures-Linked Securities must be at least $400,000; (iv) the value of the VSTOXX Futures must be calculated and available; and (v) any other event occurs or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable. Any Futures-Linked Securities linked to VSTOXX Futures would also be required to meet the listing standards applicable to all Linked Securities under 14.11(d)(2). Finally, all Linked Securities listed pursuant to Rule 14.11(d) are included within the definition of "security" or "securities" as such terms are used in the Rules of the Exchange and, as such, are subject to the full panoply of Exchange Rules and procedures that currently govern the trading of securities on the Exchange. Additionally, trading in the securities will be halted under the conditions specified in BZX Rule 11.18. Trading may also be halted because of market conditions, for reasons that, in the view of the Exchange, make trading in the securities inadvisable, or the circumstances set forth in BZX Rule 14.11(d)(2)(H), which sets forth circumstances under which Linked Securities may be halted.

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[11] The Exchange notes that Eurex is a member of the ISG and, as such, the Exchange may obtain information regarding trading in the underlying VSTOXX futures contracts. For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[12] *See* Securities Exchange Act Release No. 58968 (November 17, 2008), 73 FR 71082 (November 24, 2008) (NYSEArca–2008–111).

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

As noted above, both in the context presented herein and throughout the history of VSTOXX Futures, the monthly trading volume and open interest in VSTOXX Futures has, subject to natural fluctuation in the market, continued to grow. The Exchange notes that the monthly trading volume in the VSTOXX Futures is very similar to the trading volume of the CBOE Volatility Index® (VIX®) Futures prior to NYSE Arca, Inc. adding the VIX Futures to the definition of futures reference asset in its comparable rule,[15] which, as noted above, the Exchange also added to its rules related to Futures-Linked Securities. Much like the Futures-Linked Securities linked to the VIX Futures, Futures-Linked Securities linked to the VSTOXX Futures will provide investors with the ability to better diversify and hedge their portfolios using an exchange listed security without having to trade directly in the underlying futures contracts. The Exchange also believes that the proposed rule change would fulfill the intended objective of Rule 19b–4(e) under the Act by allowing Futures-Linked Securities linked to the VSTOXX Futures that satisfy the listing standards in Rule 14.11(d) to be listed and traded without separate Commission approval. However, as proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Futures-Linked Securities that do not satisfy the criteria of Rule 14.11(d)(2)(K)(iv). As such, the Exchange believes that the proposed amendment to add VSTOXX Futures as an underlying Futures Reference asset will facilitate the listing and trading of an additional Futures-Linked Security that will enhance competition among market participants, to the benefit of investors and the marketplace.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Futures-Linked Securities, which will enhance competition among market participants, to the benefit of investors and the marketplace and provide investors with the ability to better diversify and hedge their portfolios using an exchange listed security without having to trade directly in the underlying futures contracts. The Exchange believes that this would reduce the time frame for bringing Futures-Linked Securities linked to the VSTOXX Futures to market, thereby reducing the burdens on issuers and other market participants and promoting competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR-BatsBZX–2016–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR-BatsBZX–2016–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BatsBZX–2016–26, and should be submitted on or before August 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16380 Filed 7–11–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78234; File No. SR–BX–2016–033]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4120

July 6, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 22, 2016, NASDAQ BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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[15] *See* Securities Exchange Act Release No. 58968 (November 17, 2008), 73 FR 71082 (November 24, 2008) (NYSEArca–2008–111).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to amend Rule 4120 and the BX process for commencing trading of a security that is the subject of a trading halt.

The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com/*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX is proposing to make a minor modification to the BX process for commencing trading of a security that is the subject of a trading halt. Specifically, the Exchange is proposing to modify the way in which orders are accepted prior to the commencement of trading for securities subject to a trading halt. This change will simplify the order submission operations for market participants during trading halts.[3]

Currently, BX Rule 4120(c)(4)(B) provides that during any trading halt or pause, market participants may enter orders during the trading halt or pause and designate such orders to be held until the termination of the trading halt or pause. Under this rule, such orders will be held in a suspended state until the termination of the halt or pause, at which time they will be entered into the system. The Exchange proposes that Rule 4120(c)(4)(B) be revised to simply state that orders entered during any trading halt or pause will not be accepted.

The implementation of the existing functionality for accepting orders prior to the Exchange releasing the security for trading has not been widely used and the Exchange believes the proposed rule change will both improve and simplify the Exchange process for market participants. The Exchange will issue an Equity Trader Alert notifying Exchange member firms of the change prior to implementation on July 11, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act,[5] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system through an improved and simplified Exchange process for commencing trading of a security that is the subject of a trading halt. Specifically, this will be accomplished by revising Exchange Rule 4120(c)(4)(B) to simply state that orders entered during any trading halt or pause will not be accepted.

The current functionality for accepting orders prior to the Exchange releasing the security for trading is used infrequently and consequently the proposed rule change will have little impact on customers. To the extent that there is any impact, it will be that rejecting orders rather than holding them in a suspended state will clarify the state of participant orders, thereby reducing potential confusion. The implementation of the existing functionality for accepting orders prior to the Exchange releasing the security for trading has not been widely used and the Exchange believes the proposed rule change will both improve and simplify the Exchange process for market participants.

The proposed rule change also will remove impediments to and perfect the mechanism of a free and open market through competition. Specifically, the proposed rule change will enhance competition by increasing the Exchange's attractiveness as a venue for trading securities because, as stated above, it will both improve and simplify the Exchange process for market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposed rule change will result in an improved and simplified process for market participants, which in turn will reduce potential confusion during important market events. The Exchange believes that this change will enhance competition by increasing its attractiveness as a venue for trading securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b4(f)(6) thereunder.[6]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30-days from the date of filing. However, Rule 19b–

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[3] The proposed rule change is consistent with the recently approved filing of The NASDAQ Stock Market LLC ("Nasdaq") as to the process for commencing trading of a security that is the subject of a trading halt. *See* Securities Exchange Act Release No. 77445 (March 25, 2016), 81 FR 18658 (March 31, 2016) (SR–NASDAQ–2016–008).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 240.19b–4(f)(6). Furthermore, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

4(f)(6)(iii)[7] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may implement the proposed rule change on July 11, 2016, contemporaneously with a similar Nasdaq rule that was previously approved by the Commission[8] and a virtually identical proposed rule change submitted by NASDAQ PHLX LLC.[9]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Exchange proposes to modify the way in which orders are accepted prior to the commencement of trading for securities that are subject to a trading halt. The Exchange notes that the current functionality for accepting orders prior to the Exchange releasing the security for trading is used infrequently and therefore the proposed rule change will have little impact on its customers. Further, the Commission does not believe that the proposed rule change raises any new or novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2016–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2016–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2016–033, and should be submitted on or before August 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16378 Filed 7–11–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78233; File No. SR–NYSE–2016–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List

July 6, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 27, 2016, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List for equity transactions in stocks with a per share stock price more than $1.00 to revise: (1) Certain fees for executions at the close; and (2) the requirements for credits related to executions of orders sent to Floor brokers that add liquidity on the Exchange. The Exchange also proposes to amend its Price List to revise its trading license fees. The Exchange proposes to implement these changes to its Price List effective July 1, 2016. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] *See supra* note 3.

[9] *See* SR–PHLX–2016–70 submitted on June 22, 2016.

[10] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to revise: (1) Certain fees for executions at the close; (2) the requirements for credits related to executions of orders sent to Floor brokers that add liquidity on the Exchange; and (3) trading license fees.

The proposed changes would only apply to credits in transactions in securities priced $1.00 or more.

The Exchange proposes to implement these changes effective July 1, 2016.

Executions at the Close

Currently, member organizations that execute during the billing month average daily volume ("ADV") of at least 750,000 shares through orders executed at the close (except for market at-the-close ("MOC") and limit at-the-close ("LOC") orders), and/or Floor broker executions swept into the close (excluding verbal interest), are charged $0.00035 per share for such orders.

The Exchange proposes to increase this fee to $0.0005 per share. The fee would apply only to shares executed in excess of 750,000 ADV during the billing month. For example, a member organization that has an ADV of 3 million shares during a billing month consisting of 20 trading days would pay $0.0005 per share fee on the 2.25 million shares that exceed 750,000 on average each day. For the 20 trading days, this would be a total of 45 million shares for that month, and a total fee of $22,500.

Member organizations with execution volumes below an ADV of 750,000 shares during the billing month would continue not to be charged for these trades.

Further, for Non-Tier MOC/LOC, the Exchange currently charges member organizations $0.0010 per share for MOC and LOC orders, unless a member organization meets specified thresholds set forth in the Price List for MOC and LOC activity. The Exchange proposes to increase this fee to $0.0011 per share.

For MOC/LOC Tier 2, the Exchange currently charges $0.00070 per share for all MOC and LOC orders from any member organization executing (i) an ADV of MOC and LOC activity on the Exchange in the month of at least 0.375% of consolidated ADV ("CADV") in NYSE-listed securities during the billing month ("NYSE CADV"); or (ii) an ADV of MOC and LOC activity on the Exchange in that month of at least 0.300% of NYSE CADV plus an ADV of total close activity (*i.e.*, MOC and LOC and other executions at the close) on the Exchange in that month of at least 0.475% of NYSE CADV. The Exchange proposes to increase this fee to $0.0008 per share.

For MOC/LOC Tier 1, the Exchange currently charges $0.00060 per share for all MOC and LOC orders from any member organization executing ADV of MOC and LOC activity on the NYSE in that month of at least 0.575% of NYSE CADV. The Exchange proposes to increase this fee to $0.0007 per share.

Floor Broker Credits for Orders That Add Liquidity to the Exchange

The Exchange currently provides a per share credit for executions of orders sent to a Floor broker for representation on the Exchange when adding liquidity to the Exchange if the member organization has an ADV that adds liquidity to the Exchange by a Floor broker during the billing month that is at least equal to certain thresholds. The first threshold is 2,500,000 shares ADV in order to qualify for the existing credit of $0.0020 per share. The second threshold is 12,000,000 shares ADV in order to qualify for the existing credit of $0.0022 per share.

The Exchange proposes to replace the current share volume ADV thresholds for these credits with thresholds representing a percentage of CADV. More specifically, in order to qualify for the first credit of $0.0020 per share, the Exchange proposes that a member organization have an ADV that adds liquidity to the Exchange by a Floor broker during the billing month that is at least equal to .07% of CADV. Second, in order to qualify for the credit of $0.0022 per share, the Exchange proposes that a member organization have an ADV that a 1200dds liquidity to the Exchange by a Floor broker during the billing month that is at least equal to .33% of CADV. The Exchange believes thresholds representing a percentage of CADV rather than a fixed share volume requirement, is more appropriate because it would reasonably require that the monthly volume requirement is consistent relative to fluctuations in market volume over time.

Trading Licenses

NYSE Rule 300(b) provides, among other things, that the price per trading license will be published each year in the Exchange's price list. The current trading license fee in place for 2016 [4] is $50,000 for the first license held by a member organization and $15,000 for each additional license held by a member organization. The Exchange proposes to eliminate the $15,000 additional license fee. To effectuate this change, the Exchange proposes to amend the Price List to delete the phrase "$15,000.00 per license," add the words "No charge" before "for additional licenses held by a member organization," and delete footnote 15 at the end of the sentence. The text of footnote 15 would not be deleted, and would continue to apply to the first license held by a member organization described in the previous paragraph.

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The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Executions at the Close

The Exchange believes that the proposed fee increases for certain executions at the close are reasonable. The Exchange's closing auction is a recognized industry benchmark,[7] and member organizations receive a substantial benefit from the Exchange in obtaining high levels of executions at the Exchange's closing price on a daily basis.

The Exchange believes that it is equitable and not unfairly discriminatory to modify fees for executions at the close (other than MOC and LOC orders) and Floor broker executions swept into the close (excluding Verbal Interest) for member organizations that execute an ADV of at least 750,000 of such executions on a combined basis, by increasing the applicable fee but to apply that fee only to shares executed over 750,000 ADV during the billing month, because member organizations that reach 750,000 ADV threshold are generally larger member organizations that are deriving a substantial benefit from this high volume of closing executions. Nonetheless, the Exchange must continue to encourage liquidity from multiple sources. Allowing member organizations with execution volumes of an ADV below 750,000 shares during the billing month to continue to obtain executions at the close at no charge, and to charge the fee only with respect to shares executed over 750,000 ADV during the billing month, continues to encourage member organizations to send orders to the Exchange for the closing auction. The Exchange believes that its proposal would equitably balance these interests and continue to encourage order flow from multiple sources, which helps to maintain the quality of the Exchange's closing auctions for the benefit of all market participants. The proposed fee is also reasonable, in that it is lower than applicable closing rates on the NASDAQ Stock Market, LLC ("NASDAQ").[8] For example, the default fee for executions in NASDAQ's "Closing Cross" is $0.0008 per share.

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[4] *See* Securities Exchange Act Release No. 76865 (January 11, 2016), 81 FR 2264 (January 15, 2016) (SR–NYSE–2016–06).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) & (5).

[7] For example, the pricing and valuation of certain indices, funds, and derivative products require primary market prints.

The Exchange believes that increasing the MOC/LOC Non-Tier fee to $0.0011 is reasonable because this rate would be lower than the non-tier rate, Tier F, for market-on-close and limit-on-close orders on NASDAQ, of $0.0015 per executed share.[9] Similarly, the Exchange believes that increasing the MOC/LOC Tier 2 fee to $0.00080 per share and the MOC/LOC Tier 1 fee to $0.0007 is reasonable because the proposed MOC/LOC Tier 2 fee would be the same as the lowest fee for market-on-close and limit-on close orders on NASDAQ, of $0.0008 per executed share, and the proposed MOC/LOC Tier 1 fee would be lower than the lowest fee for market-on-close and limit-on close orders on NASDAQ.

The Exchange believes that maintaining the lowest comparable fee for the highest liquidity requirements would incentivize member organizations to send in more closing auction volume to the primary market, thereby deepening the Exchange's liquidity pool and supporting the quality of price discovery. The Exchange believes that it is equitable and not unfairly discriminatory to charge lower or equal fees to member organizations that make significant contributions to market quality by providing higher volumes of liquidity, which benefits all market participants. The Exchange believes the proposed fees are equitable and not unfairly discriminatory because all similarly situated member organizations would be subject to the same fee structure.

Floor Broker Credits for Orders That Add Liquidity to the Exchange

The Exchange believes that the changes proposed to the tiered credits for executions of orders sent to a Floor broker for representation on the Exchange are reasonable because they would encourage additional displayed liquidity on the Exchange. The proposed change would also encourage the execution of such transactions on a public exchange, thereby promoting price discovery and transparency.

The Exchange believes the proposed change is equitable and not unfairly discriminatory because it would continue to encourage member organizations to send orders to the Floor for execution, thereby contributing to robust levels of liquidity on the Floor, which benefits all market participants. The proposed change is also equitable and not unfairly discriminatory because those member organizations that make significant contributions to market quality and that contribute to price discovery by providing higher volumes of liquidity would continue to be allocated a higher credit. The Exchange believes that any member organizations that may currently be qualifying under the existing thresholds could qualify for the remaining two thresholds based on the levels of activity sent to Floor brokers. The proposed change also is equitable and not unfairly discriminatory because all similarly situated member organizations would pay the same rate, as is currently the case, and because all member organizations would be eligible to qualify for the rate by satisfying the related thresholds.

Finally, the Exchange believes that the proposed change promotes just and equitable principles of trade because, by basing the monthly volume requirement on a percentage of NYSE CADV, the Floor broker requirement to add liquidity to the market would track actual consolidated trading volumes. Accordingly, in months with lower trading volumes, a monthly volume requirement that tracks the actual consolidated volume would reasonably require that Floor brokers add sufficient liquidity relative to the market, without the monthly volume requirement being too burdensome for them. Conversely, during months when trading volumes are generally higher across all markets, the proposed change would result in Floor brokers being required to increase the liquidity they add to the market, thereby reasonably requiring that Floor brokers are engaging in meaningful trading activity consistent with the purpose of the Floor broker credits for adding liquidity to the Exchange.

Trading Licenses

The Exchange believes that the proposal to eliminate the $15,000 fee for each additional license held by a member organization above the first license is reasonable because it will encourage member organizations to hold additional trading licenses, which will increase the number of market participants trading on the floor of the Exchange, which will promote liquidity, price discovery, and the opportunity for price improvement for the benefit of all market participants. The Exchange also believes it is reasonable to offer a fee reduction because it will provide member organizations with greater flexibility in managing their personnel, especially during times of increased volatility and in summer months when member organizations tend to experience greater staff rotation. The Exchange believes the proposed change is equitable and not unfairly discriminatory because all similarly situated member organizations would continue to be subject to the same trading license fee structure and because access to the Exchange's market would continue to be offered on fair and non-discriminatory terms.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed changes would contribute to the Exchange's market quality by promoting price discovery and ultimately increased competition. For the same reasons, the proposed change also would not impose any burden on competition among market participants. Pricing for executions at the opening

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[8] *See* NASDAQ Rule 7018(d).

[9] *See id.*

[10] 15 U.S.C. 78f(b)(8).

[sic] would remain at relatively low levels and would continue to reflect the benefit that market participants receive through the ability to have their orders interact with other liquidity at the opening [sic]. The Exchange also believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2016–47 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2016–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2016–47 and should be submitted on or before August 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16377 Filed 7–11–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given that, pursuant to the provisions of the Government in Sunshine Act, Public Law 99–409, the Securities and Exchange Commission will hold an Open Meeting on Wednesday, July 13, 2016, at 10 a.m. in the Auditorium, Room L–002.

The discussion agenda for the Open Meeting will be:

- The Commission will consider whether to adopt certain amendments and issue guidance relating to Regulation SBSR under the Securities Exchange Act of 1934.
- The Commission will consider whether to propose amendments to rules under the Securities Exchange Act of 1934 regarding disclosure of order handling information.
- The Commission will consider whether to propose amendments to address redundant, duplicative, overlapping, outdated, or superseded disclosure requirements.

The summary agenda for the Open Meeting will be:

- The Commission will vote on amendments to its Rules of Practice regarding administrative proceedings.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Open Meeting in open session, and determined that Commission business required consideration earlier than one week from today. No earlier notice of this Meeting was practicable.

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[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

[14] 17 CFR 200.30–3(a)(12).

At times, changes in Commission priorities require alterations in the schedules of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact: Brent J. Fields in the Office of the Secretary at (202) 551–5400.

Dated: July 7, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–16542 Filed 7–8–16; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78232; File No. SR–PHLX–2016–70]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 3100

July 6, 2016.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 22, 2016, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is proposing to amend Rule 3100 and the Exchange process for commencing trading of a security that is the subject of a trading halt.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at the Exchange’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to make a minor modification to the Exchange process for commencing trading of a security that is the subject of a trading halt. Specifically, the Exchange is proposing to modify the way in which orders are accepted prior to the commencement of trading for securities subject to a trading halt. This change will simplify the order submission operations for market participants during trading halts.[3]

Currently, Exchange Rule 3100(c)(3)(B) provides that during any trading halt or pause, market participants may enter orders during the trading halt or pause and designate such orders to be held until the termination of the trading halt or pause. Under this rule, such orders will be held in a suspended state until the termination of the halt or pause, at which time they will be entered into the system. The Exchange proposes that Rule 3100(c)(3)(B) be revised to simply state that orders entered during any trading halt or pause will not be accepted.

The implementation of the existing functionality for accepting orders prior to the Exchange releasing the security for trading has not been widely used and the Exchange believes the proposed rule change will both improve and simplify the Exchange process for market participants. The Exchange will issue an Equity Trader Alert notifying Exchange member firms of the change prior to implementation on July 11, 2016.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[4] in general, and with section 6(b)(5) of the Act,[5] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system through an improved and simplified Exchange process for commencing trading of a security that is the subject of a trading halt. Specifically, this will be accomplished by revising Exchange Rule 3100(c)(3)(B) to simply state that orders entered during any trading halt or pause will not be accepted.

The current functionality for accepting orders prior to the Exchange releasing the security for trading is used infrequently and consequently the proposed rule change will have little impact on customers. To the extent that there is any impact, it will be that rejecting orders rather than holding them in a suspended state will clarify the state of participant orders, thereby reducing potential confusion. The implementation of the existing functionality for accepting orders prior to the Exchange releasing the security for trading has not been widely used and the Exchange believes the proposed rule change will both improve and simplify the Exchange process for market participants.

The proposed rule change also will remove impediments to and perfect the mechanism of a free and open market through competition. Specifically, the proposed rule change will enhance competition by increasing the Exchange’s attractiveness as a venue for trading securities because, as stated above, it will both improve and simplify the Exchange process for market participants.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposed rule change will result in an improved and simplified process for market participants, which in turn will reduce potential confusion during important market events. The Exchange believes that this change will enhance competition by increasing its attractiveness as a venue for trading securities.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposed rule change is consistent with the recently approved filing of The NASDAQ Stock Market LLC (“Nasdaq”) as to the process for commencing trading of a security that is the subject of a trading halt. *See* Securities Exchange Act Release No. 77445 (March 25, 2016), 81 FR 18658 (March 31, 2016) (SR–NASDAQ–2016–008).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30-days from the date of filing. However, Rule 19b–4(f)(6)(iii)[7] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may implement the proposed rule change on July 11, 2016, contemporaneously with a similar Nasdaq rule that was previously approved by the Commission[8] and a virtually identical proposed rule change submitted by NASDAQ BX, Inc.[9]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The Exchange proposes to modify the way in which orders are accepted prior to the commencement of trading for securities that are subject to a trading halt. The Exchange notes that the current functionality for accepting orders prior to the Exchange releasing the security for trading is used infrequently and therefore the proposed rule change will have little impact on its customers. Further, the Commission does not believe that the proposed rule change raises any new or novel issues. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PHLX–2016–70 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–PHLX–2016–70. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2016–70, and should be submitted on or before August 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16376 Filed 7–11–16; 8:45 am]

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[6] 17 CFR 240.19b–4(f)(6). Furthermore, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file a proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing, or such shorter time as designated by the Commission. The Exchange has provided such notice.

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] *See supra* note 3.

[9] *See* SR–BX–2016–033 submitted on June 22, 2016.

[10] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, July 14, 2016 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the Closed Meeting in closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Adjudicatory matters;

Opinion; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: July 7, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–16497 Filed 7–8–16; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78235; File No. SR–C2–2016–010]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules Related to Execution and Priority

July 6, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 29, 2016, C2 Options Exchange, Incorporated (“C2” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a “non-controversial” proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules related to execution and priority. The text of the proposed rule change is available on the Exchange’s Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange’s Office of the Secretary, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends C2’s execution and priority rules to more accurately reflect current System functionality and make other technical and nonsubstantive changes. First, the proposed rule change amends Rule 6.12(a) to provide the price-time and pro rata priority algorithms apply to orders and quotes. The current rule text states these trading priority allocations apply only to orders; however, the System applies these rules of trading priority to resting orders and quotes, which is consistent with the Exchange’s intention and, the Exchange believes, Participants’ expectations.[5] Resting quotes may trade with incoming orders in the same manner as resting orders, and the proposed rule change merely updates the rule text to explicitly state this. The proposed rule change also makes nonsubstantive changes to Rule 6.12(a), including correcting punctuation and using consistent language in both subparagraphs (1) and (2).[6]

Second, the proposed rule change amends Rule 6.12(a)(2) to add detail regarding how the System distributes contracts pursuant to the pro-rata algorithm and rounds fractions of contracts. Current Rule 6.12(a)(2) states resting orders are prioritized according to price, and if there are two or more orders at the best price, then trades are allocated proportionally according to size (in a pro rata fashion). Executable quantity is allocated to the nearest whole number, with fractions ½ or greater rounded up and fractions less than ½ rounded down. If there are two market participants that both are entitled to an additional ½ contract and there is only one contract remaining to be distributed, the additional contract will be distributed to the participant whose quote or order has time priority. This is consistent with System functionality; however, it represents only one example (a situation in which there are two market participants and only one remaining contract) rather than a general rule regarding allocations of contracts that cannot be allocated proportionally in whole numbers. For example, three market participants may be entitled to an additional fraction of a contract.

The proposed rule change amends this provision to state if there are two or more resting orders or quotes at the best price, then the System allocates contracts from an incoming order or quote to resting orders and quotes sequentially in the order in which the System received them (*i.e.*, according to time) proportionally according to size (*i.e.*, on a pro rata basis). The System allocates contracts to the first resting order or quote proportionally according to size (based on the number of contracts to be allocated and the size of the resting orders and quotes). Then, the System recalculates the number of contracts to which each remaining resting order and quote is afforded proportionally according to size (based on the number of remaining contracts to be allocated and the size of the remaining resting quotes and orders) and allocates contracts to the next resting order or quote. The System repeats this process until it allocates all contracts from the incoming order or quote. The System rounds fractions ½ or greater up and fractions less than ½ down prior to each allocation. This proposed provision is consistent with the current rule that states contracts are distributed to quotes and orders in time priority. It adds detail regarding the sequential nature of the allocation process and applies the provision to situations in which any number of orders or quotes may be entitled to non-whole numbers of contracts. The Exchange believes this is a fair, objective process and simple systematic process to allocate “extra” contracts when more than one market participant may be entitled to those extra contracts after rounding. The following examples demonstrate this process:

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] Previous rule filings state these rules of trading priority apply to the allocation of both resting orders and quotes. *See, e.g.*, SR–C2–2010–005. Additionally, Rule 6.12(a)(2) states an additional contract (if contracts cannot be distributed equally among Participants) will be distributed to the Participant whose *quote or order* has time priority, supporting the rule’s applicability to orders and quotes.

[6] The proposed rule change similarly amends Rules 6.12(b)(1), 6.12(h), 6.16, 6.18(d), 6.34(d), and 6.51(b)(2)(B) to include references to quotes in rule provisions that currently only reference orders but also apply in the same manner to quotes.

- *Example 1:* Suppose there are three resting orders at the same price with sizes of 30 (Order A), 20 (Order B) and 10 (Order C) (received by the System in that order), and an incoming order with size of 15 is marketable against those three orders. The System first allocates 8 contracts to Order A (1/2 of 15 is 7.5, which rounds to 8). After this allocation, the System allocates 5 of the 7 remaining contracts to Order B (2/3 of 7 is 4.7, which rounds to 5), and then allocates the remaining 2 contracts to Order C.
- *Example 2:* Suppose there are three resting orders at the same price with sizes of 10 (Order A), 20 (Order B) and 30 (Order C) (received by the System in that order), and an incoming order with size of 15 is marketable against those three orders. The System first allocates 3 contracts to Order A (1/6 of 15 is 2.5, which rounds to 3). After this allocation, the System allocates 5 of the 12 remaining contracts to Order B (2/5 of 12 is 4.8, which rounds to 5), and then allocates the remaining 7 contracts to Order C.
- *Example 3:* Suppose there are three resting orders A, B and C (received by the System in that order) at the same price, each with a size of 50, and an incoming order with size of 100 is marketable against those three orders. The System first allocates 33 contracts to Order A (1/3 of 100 is 33.3, which rounds to 33). After this allocation, the System allocates 34 of the 67 remaining contracts to Order B (1/2 of 67 is 33.5, which rounds to 34), and then allocates the remaining 33 contracts to Order C.

Third, the proposed rule change amends Rule 6.12(a)(3)(B) to delete subparagraphs (i) through (iv) (as well as the introductory sentence to those subparagraphs, as it is no longer necessary with the deletion of the listed items). Currently, subparagraph (B) states when allocating the participation right of a Preferred Market-Maker ("PMM") or Designated Primary Market-Maker ("DPM") pursuant to Rule 8.13 or 8.19, respectively, the following apply:

- To be entitled to their participation right, a PMM's or DPM's order and/or quote must be at the best price on the Exchange (*i.e.,* the Exchange's best bid or offer ("BBO")).
- a PMM or DPM may not be allocated a total quantity greater than the quantity that it is quoting (including orders not part of quotes) at that price.
- in establishing the counterparties to a particular trade, the PMM's or DPM's participation right must first be counted against the PMM's or DPM's, as applicable, highest priority bids or offers.
- the participation right shall only apply to any remaining balance of an order once all higher priorities are satisfied.

Each of these four conditions must be satisfied in order for a PMM or DPM to receive a participation right, and that will continue to be the case. However, the first, second and fourth condition are all included in Rules 8.13 and 8.19 regarding PMM and DPM participation rights, respectively.[7] Therefore, the Exchange proposes to delete these provisions from Rule 6.12, as they are duplicative, and instead state a PMM or DPM is entitled to a participation right if it satisfies the conditions in Rule 8.13 or 8.19, respectively. The Exchange notes the rule text being deleted states a PMM's or DPM's participation right is based on its order and/or quote; however, Rules 8.13 and 8.19 provide its participation right is based on its quote. Rules 8.13 and 8.19 are consistent with how the System determines a PMM's or DPM's entitlement to a participation right, which is consistent with the Exchange's intention and, the Exchange believes, Participant's expectations. As PMMs and DPMs having heightened quoting obligations under Rules 8.13 and 8.17, which make them eligible for the entitlement, the Exchange believes it is appropriate for the entitlement to be based on their quotes and not any resting orders they may also have at the same price. The Exchange believes deleting the provisions referenced above in Rule 6.12(a)(3)(B) will eliminate any potential confusion regarding how the System determines a PMM's or DPM's participation right.

Additionally, subparagraph (iii) states in establishing the counterparties to a particular trade, the participation entitlement must first be counted against the PMM's or DPM's, as applicable, highest priority bids or offers. For a PMM or DPM to receive an entitlement, it must have a quote at the BBO. A Market-Maker firm may have multiple individual Market-Makers submitting quotes within a class. An entitlement will apply to a PMM's or DPM's quotes with highest priority (*i.e.,* the best price if the price is the BBO) and will not apply to quotes of the same PMM or DPM firm at a lower price. The general allocation and priority rules provide contracts are allocated to quotes with the highest priority, a PMM or DPM must be quoting at the BBO, and the PMM or DPM may not be allocated a quantity greater than the quantity of its quote at that price. The Exchange believes this provision is therefore redundant and proposes to delete it.

Fourth, the proposed rule change amends Rules 8.13(c) and 8.19(b)(2) related to the participation rights of PMMs and DPMs. Currently, Rule 8.13(c) and 8.19(b)(2) each provide that a PMM or DPM participation entitlement, respectively, is 50% if there is one other Market-Maker also quoting at the BBO and 40% if there are two or more Market-Makers also quoting at the BBO. The proposed rule change provides that each of the PMM and DPM participation entitlement is based on both the number of Market-Maker quotes and non-public customer orders (including orders of professionals and voluntary professionals)[8] at the BBO.[9] This is consistent with current System functionality. Additionally, the current rule considers whether other Market-Makers are quoting at the best price, because Market-Makers provide liquidity to C2's market and are encouraged to do so if they have the opportunity to participate in a larger portion of a trade in which a PMM or DPM has a participation right. Other Participants besides Market-Makers provide liquidity to C2's market through orders, and the Exchange believes those

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[7] *See* Rules 8.13(b)(ii), (c)(i), and (c)(ii), respectively, and 8.19(b)(1)(A), (b)(1)(B) and (b)(1)(C), respectively. Note the proposed rule change amends Rules 8.13(c)(ii) and 8.19(b)(1)(C) to provide the participation entitlement is based on the number of contracts remaining after all higher priority orders have been satisfied rather than public customer orders. This is consistent with current Rule 6.12(a)(3)(B)(iv) and System functionality. If the Exchange has applied public customer priority to a class, those orders would be filled prior to a PMM or DPM participation entitlement. However, if the Exchange has applied another priority to a class at a higher priority than the participation entitlement, such as market turn priority, those orders at the higher priority would also be filled prior to a PMM or DPM participation entitlement consistent with their higher priority status.

[8] Pursuant to Rule 1.1, professionals and voluntary professionals will be treated as broker-dealers for purposes of Rule 8.13 (as well as other rules related to allocation and priority). The proposed rule change amends the definitions of professional and voluntary professional in Rule 1.1 to provide that professionals and voluntary professionals will be treated as broker-dealers for purposes of Rule 8.19 as well. It was the intent of those definitions for professionals and voluntary professionals to be treated as broker-dealers under all rules related to allocation and priority; the Exchange is adding Rule 8.19 to the list of rules in those definitions, as it was inadvertently omitted from the list.

[9] The proposed rule change makes a corresponding change to Rule 8.13, Interpretation and Policy .01(b) related to the PMM participation entitlement with respect to complex orders. The proposed rule change also amends Rules 8.13(c) and Interpretation and Policy .01(b) and 8.19(b) to use terms already defined in Rule 1.1 (BBO and Public Customer), as well as to make other nonsubstantive changes.

Participants, like Market-Makers, should have the same opportunity with respect to non-pubic customer orders.

The proposed rule change also provides that the participation entitlement will be the greater of the amount the PMM or DPM, as applicable, would otherwise receive pursuant to the algorithm applicable to the class and 40% when there are two or more other Market-Maker quotes or non-Public Customer orders at the BBO or 50% when there is only one other Market-maker quote or non-Public Customer order at the BBO, but no fewer than one contract.[10] This change is consistent with current System functionality as well as the intent of the participation entitlement, which is to provide PMMs and DPMs with a benefit for their heightened quoting obligations.[11] The proposed change providing the participation entitlement may be the amount the PMM or DPM, as applicable, would otherwise receive pursuant to the applicable algorithm is appropriate, because the participation entitlement could harm rather than benefit the PMM or DPM if its quote was large enough it would, for example, receive 60% of the contract based on the pro rata algorithm. This encourages PMMs and DPMs to quote larger sizes, which increases liquidity and ultimately benefits investors. This proposed change is also consistent with the rules of other exchanges.[12]

With respect to the proposed change stating a PMM or DPM, as applicable, may receive no fewer than one contract pursuant to the participation entitlement, because fractions of contracts of less than ½ are rounded down, as discussed above, a transaction involving a small number of contracts may result in zero contracts being allocated to a PMM or DPM who should otherwise have priority. For example, if there is one contract left after an order trades with a public customer order, and there is a DPM and two other Market-Makers quoting at the BBO, 40% of one would give the DPM zero contracts, as 0.4 would round down to zero.[13] Thus, this proposed rule change is intended to ensure that a PMM or DPM would receive a contract in this situation to continue to encourage PMMs or DPMs to provide liquidity on the Exchange.

Fifth, the Exchange proposes to update Rule 6.12(c) regarding the priority of contingency orders. Currently, Rule 6.12(c) states, regardless of the allocation method in place, contingency orders (except elected stop-limit orders and the displayed portion of a reserve order) are placed last in priority order, regardless of when they were entered into the System. A contingency order that was entered before a limit order for the same security at the same price will be treated as if it were entered after the limit order. If public customer priority is afforded to a particular security, public customer contingency orders will have priority over non-public customer contingency orders but behind all other orders.

The Exchange proposes to replace that provision to add more detail regarding the prioritization of contingency orders. Proposed Rule 6.12(c) states once a certain event or trading condition satisfies an order's contingency, an order is no longer a contingency order and is treated as a market or limit order (as applicable), prioritized in the same manner as any other market or limit order based on the time it enters the book following satisfaction of the contingency (*i.e.,* last in time priority with respect to other orders and quotes resting in the book at that time).[14] If contingencies of multiple orders are satisfied at the same time, the System sends them to the book in the order in which the System initially received them.

Notwithstanding the foregoing, under any algorithm in Rule 6.12 [15]:

(1) Upon receipt of a reserve order, the System displays in the book any initially display-eligible portion of the reserve order, which is prioritized in the same manner as any other order (*i.e.,* based on the time the System receives it). Once any non-displayed portion of a reserve order becomes eligible for display, the System displays in the book that portion of the order and prioritizes it based on the time it becomes displayed in the book (*i.e.,* last in time priority with respect to other orders and quotes resting in the book at that time).

(2) Immediate-or-cancel and fill-or-kill orders are not placed in the book and thus are not prioritized with respect to other resting orders and quotes in the book (by definition, those types of orders are cancelled if they do not execute as soon as they are represented on the Exchange so have no opportunity to rest in the book). These orders execute against resting orders and quotes in the book based on the time the System receives them (*i.e.,* the System processes these orders in the time sequence in which it receives them).

(3) all-or-none orders are always last in priority (including after the undisplayed portions of reserve orders). If the Exchange applies public customer priority to a class, orders trade in the following order: (A) Public customer orders other than all-or-none, (B) non-public customer orders other than all-or-none and quotes, (C) public customer all-or-none orders (in time sequence), and (D) non-public customer all-or-none orders (in time sequence). If the Exchange applies pro-rata with no public customer priority or price-time to a class, orders trade in the following order: (A) orders other than all-or-none and quotes, and (B) all-or-none orders (in time sequence).[16]

The Exchange believes this provision is consistent with the definitions of these order types, pursuant to which most contingency orders become market or limit orders once the contingency is satisfied. All-or-none orders must always be last in priority to ensure that there is sufficient size to satisfy the condition of such an order to trade in its entirety after all other orders at the same price have executed. Additionally, the Exchange believes it is reasonable for orders that are not displayed in the book to not receive priority over orders that are displayed, as they are not yet eligible for execution until they become displayed. These provisions are consistent with current System functionality and are merely adding more detail to the rules to provide additional transparency regarding allocation and priority principles for investors. These provisions are also consistent with the non-inclusion of all-or-none orders and non-displayed portions of reserve orders in the NBBO.

Sixth, the proposed rule change amends Rule 6.12(e) regarding how modification of an order or quote may change its priority position. The proposed rule change amends Rule 6.12(e)(1) to clarify the provision applies to changing the price of a quote or order. This is consistent with the intention of the rule, including the final part of the provision that indicates priority is determined as if the order/quote was just received. However, reference in the rule to "changed side" (which applies to a quote) but not an order may create confusion for a market participant, who may mistakenly believe this provision only applies to quotes. Additionally, the proposed rule change amends Rule 6.12(e)(2) to clarify if the price or quantity of one side of a quote is changed, the unchanged side retains its priority position. This is consistent with the provision in subparagraph (1), which provides changing the price of a quote only changes the priority position of the changed side of the quote; the proposed rule change explicitly states that the unchanged side retains its position. The Exchange believes these changes will eliminate any potential confusion.

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[10] The proposed rule change also amends Rule 8.19(b)(2) to state the DPM participation entitlement will be 30% when there are three or more other Market-Maker quotes or non-Public Customer orders at the BBO (and thus amends the previous clause to state the DPM participation entitlement will be 40% when there are two other Market-Maker quotes or non-Public Customer orders at the BBO, rather than two or more). This third level of the participation entitlement encourages other market participants to quote and is consistent with the rules of another exchange. *See, e.g.,* Chicago Board Options Exchange, Incorporated ("CBOE") Rule 8.87(b)(2).

[11] *See* Rules 8.13 and 8.17, respectively.

[12] *See* CBOE Rules 6.45A(a)(i)(C) and 6.45B(a)(ii)(C); and Miami International Securities Exchange, LLC ("MIAX") Rule 514(g)(1) and (h)(1).

[13] The contract would ultimately go to the Market-Maker who entered its quote first, as discussed above, which may not be the PMM or DPM.

[14] The System generally bases priority of a non-contingency order on the time the System receives it.

[15] As provided in current Rule 6.12(a), all displayed orders at a given price have priority over the non-displayed portion of a reserve order at the same price. This is also consistent with the definition of reserve orders in current Rule 6.10(c)(8). The proposed rule change moves this provision to proposed subparagraph (c)(1) so all provisions of this rule regarding priority of contingency orders are included in the same paragraph. The proposed rule change also adds all-or-none orders to this provision, as those are also not displayed until their contingencies are triggered, similar to the non-displayed portions of reserve orders.

[16] Note other priorities may be applied to the class as well and would function as set forth in the rules.

Finally, the proposed rule change amend Rule 6.12(f) to clarify the meaning of the provision. Current paragraph (f) states unless expressly stated otherwise, any potential price improvement resulting from an execution in the System shall accrue to the party that is removing liquidity previously posted in the System. Proposed paragraph (f) states, unless expressly stated otherwise, any potential price improvement resulting from an execution in the System accrues to the incoming order or quote that removes liquidity previously posted in the System. For example, suppose the market for a series is 1.00 to 1.20. A limit order in that series to buy for 1.25 enters the System. The System will provide price improvement to that incoming order and execute the order against the resting offer of 1.20. This is merely a clarification of the rule text and does not change any System functionality.

The proposed rule change makes nonsubstantive changes to Rules 6.12(b)(1), (e) and (h), 6.18(d) and 8.13(c) and Interpretation and Policy .01, including to fix punctuation and use defined terms, plain English, and language consistent with that used in similar rule provisions. In addition, the proposed rule change amends Rule 6.12(b)(1) to provide the Market Turner priority percentage may be reduced on a class-by-class basis rather than series-by-series basis, as the Exchange generally makes this determination for an entire class rather than for specific series.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change amends execution and priority rules to more accurately reflect System functionality, which transparency protects investors and perfects the mechanism of a free and open market. The proposed rule change to provide quotes, in addition to orders, are subject to price-time and pro rata priority promotes just and equitable principles of trade, as resting quotes trade with incoming orders in the same manner as resting orders. The proposed change regarding how the System rounds the number of contracts when they cannot be allocated proportionally in whole numbers pursuant to the pro-rata algorithm adds detail to the rules (which previously only addressed the situation if there one additional contract for two market participants) regarding the allocation process and provides a fair, objective manner for rounding and distribution in all situations in which the number of contracts many not be allocated proportionally in whole numbers. Distributing contracts to resting orders and quotes in time priority when they cannot be allocated proportionally in whole numbers is also consistent with C2's current rules as well as the rules of another options exchange.[20] The Exchange believes adding these details to the rules, as well as the technical and nonsubstantive changes to the rules, will better enable investors to understand how the System allocates trades and affords priority. The proposed rule change does not change how the System allocates and prioritizes orders and quotes; thus, orders and quotes will be subject to the same priority principles as they are today.

The proposed rule change to delete from Rule 6.12 the conditions a PMM or DPM must satisfy to be entitled to a participation right eliminates duplication and confusion, a these conditions are also contained in Rules 8.13 and 8.19, which protects investors. The proposed rule change providing a PMM's or DPM's participation right is determined in part by how many Market-Maker quotes and non-public customer orders are at the BBO is not only consistent with current System functionality but also encourages all Market-Makers, not just Trading Permit Holders, to continue to provide liquidity to the market because it may provide them with the opportunity to participate in a larger portion of a trade in which a PMM or DPM has a participation right (60% v. 50%). PMMs, and DPMs will still be entitled to a significant participation right of 40% or 50%, as applicable, which continues to provide an appropriate balance with their heightened quoting obligations. The proposed rule change to provide a DPM's participation right will be 30% if there are three or more Market-Maker quotes or non-Public Customer orders at the BBO will further promote other market participants to participate in a larger portion of a trade and thus further encourage liquidity from these other market participants, and is also consistent with the rules of another exchange.[21] This additional liquidity will ultimately benefit investors. The proposed rule change that a PMM or DPM may receive the amount it would otherwise receive pursuant to the applicable algorithm if greater than the percentage specified in the rule will ensure PMMs and DPMs are not harmed by the participation entitlements, which are intended to be a benefit. This will encourage PMMs and DPMs to quote larges sizes, which will benefit investors, and is consistent with the rules of other exchanges.[22] Similarly, the proposed rule change that the PMM or DPM participation entitlement may not be fewer than one contract when there are other Market-Maker quotes or non-Public Customer orders ensures PMMs and DPMs will receive a benefit in exchange for their heightened quoting obligations when executions involve small number of contracts.

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[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] *See* NASDAQ OMX BX, Inc. ("BX") Chapter VI, Section 10(1)(B).

[21] *See* CBOE Rule 8.87(b)(2).

[22] *See* CBOE Rules 6.45A(a)(i)(C) and 6.45B(a)(ii)(C); and MIAX Rule 514(g)(1) and (h)(1).

The proposed rule changes regarding the priority of contingency orders, modified orders and quotes, and price improvement to incoming orders and quotes eliminate potential confusion, promote just and equitable principles of trade, and thus protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is consistent with how the System currently executes and prioritizes orders and quotes and primarily adds detail to the rules regarding current System functionality. Thus, the System will allocate orders and quotes under the proposed rule change in the same manner as it does today. The proposed rule change applies in the same manner to the orders and quotes of all Trading Permit Holders, and the additional transparency in the rules benefits all investors. The proposed rule change applies only to the allocation of orders and quotes in C2's System.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate,

it has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and Rule 19b–4(f)(6)[24] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2016–010 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2016–010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2016–010 and should be submitted on or before August 2, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,

Secretary.

[FR Doc. 2016–16379 Filed 7–11–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a meeting on Thursday, July 14, 2016, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC 20549. The meeting will begin at 9:30 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On June 22, 2016, the Commission issued notice of the Committee meeting (Release No. 33–10102), indicating that the meeting is open to the public (except during that portion of the meeting reserved for an administrative work session during lunch), and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes: Remarks from Commissioners; a discussion of the state of sustainability reporting; a discussion regarding investment company reporting modernization; and a nonpublic administrative work session during lunch.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: July 7, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–16496 Filed 7–8–16; 11:15 am]

BILLING CODE 8011–01–P

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[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6).

[25] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14749 and #14750]

West Virginia Disaster Number WV–00043

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–4273–DR), dated 06/25/2016.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 06/22/2016 and continuing.

Effective Date: 07/01/2016.

Physical Loan Application Deadline Date: 08/24/2016.

EIDL Loan Application Deadline Date: 03/27/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of West Virginia, dated 06/25/2016 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):
  Jackson, Lincoln.
Contiguous Counties: (*Economic Injury Loans Only*):
  West Virginia: Cabell, Logan, Mason, Mingo, Wayne, Wood.
  Ohio: Meigs.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–16410 Filed 7–11–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before September 12, 2016.

ADDRESSES: Send all comments to Melinda Edwards, Program Analyst, Office of Business Development, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Melinda Edwards, Program Analyst, Business Development, *Melinda.edwards@sba.gov* 202–619–1843, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: In accordance with Title 13 of the Code of Federal Regulations, Section 124.403, each 8(a) participant must annually review its business plan with the assigned Business Opportunity Specialist (BOS) and modify the plan, as appropriate, within 30 days after the close of each program year. The Participant must also submit a statement describing its current contract performance capabilities as part of its update business plan. SBA uses the information collected to assess the participant's financial condition and continued eligibility.

Summary of Information Collection:

Title: 8(a) Annual Update.

Description of Respondents: 8(a) Program Participants.

Form Number: SBA Form 1450.

Total Estimated Annual Responses: 7,814.

Total Estimated Annual Hour Burden: 14,846.

Curtis B. Rich,

Management Analyst .

[FR Doc. 2016–16406 Filed 7–11–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations, to function as a small business investment company under the Small Business Investment Company License No. 06/10–0065 issued to Capital Southwest Venture Corp., said license is hereby declared null and void.

U.S. Small Business Administration.

Dated: July 5, 2016.

Mark Walsh,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2016–16403 Filed 7–11–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14708 and #14709]

Texas Disaster Number TX–00468

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–4269–DR), dated 04/25/2016.

Incident: Severe Storms and Flooding.

Incident Period: 04/17/2016 through 04/30/2016.

Effective Date: 07/05/2016.

Physical Loan Application Deadline Date: 07/29/2016.

EIDL Loan Application Deadline Date: 01/25/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated 04/25/2016 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 07/29/2016.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–16402 Filed 7–11–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9631]

30-Day Notice of Proposed Information Collection: Supplemental Questionnaire To Determine Entitlement for a U.S. Passport

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 11, 2016.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, by mail to PPT Forms Officer, U.S. Department of State, CA/PPT/S/L/LA, 44132 Mercure Cir, P.O. Box 1227 Sterling, VA 20166–1227, by phone at (202) 485–6373, or by email at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Supplemental Questionnaire to Determine Entitlement for a U.S. Passport.
- *OMB Control Number:* 1405–0214.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Legl Affairs and Law Enforcement Liaison (CA/PPT/S/L/LA).
- *Form Number:* DS–5513.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 3,257.
- *Estimated Number of Responses:* 3,257.
- *Average Time per Response:* 85 minutes.
- *Total Estimated Burden Time:* 4,614 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The primary purpose for soliciting this information is to establish entitlement for a U.S. Passport Book or Passport Card. The information may also be used in connection with issuing other travel documents or evidence of citizenship, and in furtherance of the Secretary's responsibility for the protection of U.S. nationals abroad and to administer the passport program.

Methodology: The supplemental Questionnaire to Determine Entitlement for a U.S. Passport is used to supplement an existing passport application and solicits information relating to the respondent's family and birth circumstances that is needed prior to passport issuance. The form is available on the Department's Web site, where it can be filled out online and printed for submission.

Additional Information: The Privacy Act statement has been amended to clarify that an applicant's failure to provide his or her Social Security number may result in the denial of an application, consistent with 22 U.S.C 2714a(f), which authorizes the Department to deny an application for a U.S. passport when the applicant fails to include his or her Social Security number.

Dated: July 1, 2016.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016–16521 Filed 7–11–16; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 9630]

30-Day Notice of Proposed Information Collection: Supplemental Questionnaire To Determine Identity for a U.S. Passport

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 11, 2016.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, by mail to PPT Forms Officer, U.S. Department of State, CA/PPT/S/L/LA, 44132 Mercure Cir, P.O. Box 1227 Sterling, VA 20166–1227, by phone at (202) 485–6373, or by email at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Supplemental Questionnaire to Determine Identity for a U.S. Passport.
- *OMB Control Number:* 1405–0215.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services,

Office of Legl Affairs and Law Enforcement Liaison (CA/PPT/S/L/LA).

- *Form Number:* DS–5520.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 82,347.
- *Estimated Number of Responses:* 82,347.
- *Average Time per Response:* 45 minutes.
- *Total Estimated Burden Time:* 61,760 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The primary purpose for soliciting this information is to validate an identity claim for a U.S. Passport Book or Passport Card in the narrow category of cases in which the evidence presented by an applicant is insufficient to establish identity. The information may also be used in adjudicating applications for other travel documents and services, and in connection with law enforcement, fraud prevention, border security, counterterrorism, litigation activities, and administrative purposes.

Methodology: The Supplemental Questionnaire to Determine Identity for a U.S. Passport is intended to verify the respondent's identity for purposes of determining eligibility for a U.S. Passport. This form is used to supplement an existing passport application and solicits information relating to the respondent's employment and residences needed to corroborate an applicant's identity claim prior to passport issuance. The form is available on the Department's Web site, where it can be filled out online and printed for submission.

Additional information: The Privacy Act statement has been amended to clarify that an applicant's failure to provide his or her Social Security number may result in the denial of an application, consistent with 22 U.S.C 2714a(f) which authorizes the Department to deny an application for a U.S. passport when the applicant fails to include his or her Social Security number.

Dated: July 1, 2016.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2016–16522 Filed 7–11–16; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–83]

Petition for Exemption; Summary of Petition Received; Airborne Heat Ballooning

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 1, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–7151 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brent Hart (202) 267–4034, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 30, 2016.

Dale Bouffiou,

Acting Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2016–7151.

Petitioner: Airborne Heat Ballooning.

Section(s) of 14 CFR Affected: 61.19(a)(2), (b) and (c).

Description of Relief Sought: A request to exempt balloon pilots from obtaining plastic student pilot certificates since they are already exempt from Transportation Security Administration (TSA) screening requirements.

[FR Doc. 2016–16411 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–68]

Petition for Exemption; Summary of Petition Received; Ameristar Air Cargo, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief

from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 1, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–2706 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Nia Daniels, 800 Independence Avenue SW., Washington, DC 20591, (202) 267–7626.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 29, 2016.

Dale Bouffiou,

Deputy Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2016–2706.

Petitioner: Ameristar Air Cargo, Inc.

Section of 14 CFR Affected: 121.436.

Description of Relief Sought: Ameristar Air Cargo, Inc. (Ameristar) seeks an exemption to allow experience gained as a pilot in command (PIC) under part 121 prior to July 31, 2013, to count towards the experience requirement of § 121.436(a)(3), even though the pilot was not serving as PIC in part 121 operations on that date. The FAA has previously granted similar relief in response to petitions from individual airmen. Ameristar requests that this relief be granted to the air carrier so that any pilot employed by Ameristar with prior part 121 PIC experience could use that time towards the § 121.436(a)(3) requirement, if needed.

[FR Doc. 2016–16412 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–50]

Petition for Exemption; Summary of Petition Received; (Southwest Airlines Company)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before August 1, 2016.

ADDRESSES: Send comments identified by docket number (FAA–2002–11485) using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Nia Daniels, 800 Independence Ave. SW., Washington, DC 20591, (202) 267–7626.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on June 29, 2016.

Dale Bouffiou,

Deputy Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2002–11485.

Petitioner: Southwest Airlines Company.

Section of 14 CFR Affected: 121.434(c)(1)(ii).

Description of Relief Sought: Southwest Airlines Company (Southwest) requests an amendment to Exemption No. 7132 which permits Southwest to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) during at least one flight leg that includes a takeoff and a landing while that PIC is completing the initial or upgrade training. Southwest seeks an amendment to delete Condition and Limitation No. 1.b. of the exemption to remove the requirement that the qualifying PIC candidate has completed no less than 10 hours of supervised operating experience and no fewer than two landings.

[FR Doc. 2016–16413 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0338]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 44 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on January 14, 2016. The exemptions expire on January 14, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On December 14, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 44 individuals and requested comments from the public (80 FR 77408). The public comment period closed on January 13, 2016.

FMCSA has evaluated the eligibility of the 44 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

III. Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 44 applicants have had ITDM over a range of 1 to 37 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the December 14, 2015, **Federal Register** notice and they will not be repeated in this notice.

IV. Discussion of Comments

FMCSA received no comments in this proceeding.

V. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

VI. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VII. Conclusion

Based upon its evaluation of the 44 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b)).

Shannon M. Anfindsen (GA)
Jessie L. Arrant, Jr. (GA)
Joseph M. Benech (RI)
Mark L. Birch (WI)
Shane M. Burgard (MN)
Jonathan W. Cottom (PA)
David J. Davenport (WA)
Wesley O. Davis (SC)
Steven P. DelPizzo (PA)
Savering F. Demiter (PA)
Brandon A. Dipasquale (NY)
Gregory P. Doyle (CO)
Scott A. Fetner (AL)
Alfredo Flores (KS)
Timothy D. Funk (IL)
James D. Gage (MI)
Leslie G. Goodwin (KS)
Diane M. Greenberg (VA)
Brent P. Griswold (NY)
Earl E. Hudson, III (SC)
Gregory A. Huffman (TX)
Donald R. Kuehn (MN)
Robert D. Lair, Jr. (AR)
Mark A. Leman (IL)
Terry D. Leuthold (MT)
Michael S. Massa (PA)
Jordan L. Moss (GA)
Ted A. Moyer (FL)
Lynette A. Occhipinti (WA)
Derek D. Patrick (MI)
Joseph M. Petrucci (NH)
James W. Prather (OH)
Edward O. Prosser (RI)
Dennis L. Ruff (WA)
William J. Shrader (CA)
Ronald L. Smith (KS)
Wayne D. Smith (VT)
Carnnell A. Taite (MI)
Garrett J. Tousignant (IL)
Franklin G. Towell (IN)
Robert S. Townsend (NH)
Zachary C. Warrick (NE)
Zachary C. White (CA)
Mark K. Wittig (NY)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 29, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–16429 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0177]

Crash Weighting Analysis

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; response to public comments.

SUMMARY: On January 23, 2015, FMCSA announced the results of the Agency's study on the feasibility of using a motor carrier's role in crashes in the assessment of the company's safety. This study assessed (1) whether Police Accident Reports (PARs) provide sufficient, consistent, and reliable information to support crash weighting determinations; (2) whether a crash weighting determination process would offer an even stronger predictor of crash risk than overall crash involvement and how crash weighting would be implemented in the Agency's Safety Measurement System (SMS); and (3) how FMCSA might manage a process for making crash weighting determinations, including the acceptance of public input.

Based on the feedback received in response to the January 23, 2015, Federal Register notice, FMCSA conducted additional analysis to improve the effectiveness of the Crash Indicator Behavior Analysis and Safety Improvement Category (BASIC). In addition, the Agency will develop and implement a demonstration program to determine the efficacy of a program to conduct preventability determinations on certain types of crashes that generally are less complex.

ADDRESSES: Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information contact Mr. Catterson Oh, Compliance Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202–366–2247 or by email: *Catterson.Oh@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

The Compliance, Safety, Accountability (CSA) program is FMCSA's enforcement model that allows the Agency and its State partners to identify and address motor carrier safety problems before crashes occur. The Agency's SMS quantifies the on-road safety performance of motor carriers to prioritize enforcement resources. FMCSA first announced the implementation of the SMS in the **Federal Register** on April 9, 2010 (75 FR 18256) (Docket No. FMCSA–2004–18898). Violations are sorted into BASICs, which include a Crash Indicator BASIC.

Since its implementation in 2010, the SMS has used recordable crash records involving commercial motor vehicles (CMVs) that are submitted by the States through the Agency's Motor Carrier Management Information System, in addition to compliance and safety performance in other BASICs, to prioritize carriers for safety interventions. The Agency uses the definition of "accident" in 49 CFR 390.5, which means an occurrence involving a CMV operating on a highway in interstate or intrastate commerce that results in: (i) A fatality; (ii) bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (iii) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle(s) to be transported away from the scene by a tow truck or other motor vehicle. The term accident does not include an occurrence involving only boarding and alighting from a stationary motor vehicle; or an occurrence involving only the loading or unloading of cargo.

The crash data reported to FMCSA by the States does not specify a motor carrier's role in the crash or whether the crash was preventable. The Crash Indicator BASIC weights crashes based on crash severity, with more weight given to fatality and injury crashes than those that resulted in a vehicle being towed from the scene with no injuries or fatalities. While the public SMS Web site provides information on the recordable crashes of motor carriers, the percentile created by the system is not and has never been publicly available. The Crash Indicator BASIC percentiles are available only to motor carriers who log in to view their own data, as well as to Agency and law enforcement users.

In addition, Section 5223 of the Fixing America's Surface Transportation, Pubic Law 114–94 (FAST) Act prohibits the Agency from making available to the general public information regarding crashes in which a determination is made that the motor carrier or the commercial motor vehicle driver is not at fault.

Research on the issue of crash preventability conducted by FMCSA, as well as independent organizations, has demonstrated that crash involvement, regardless of role in the crash, is a strong indicator of future crash risk. FMCSA's recently completed SMS Effectiveness Test shows that, as a group, motor carriers with high percentiles in the Crash Indicator BASIC have crash rates that are 85 percent higher than the national average. (*https://csa.fmcsa.dot.gov/Documents/CSMS_Effectiveness_Test_Final_Report.pdf*). This document and related reports are available in the docket of this notice.

Stakeholders have expressed concern that the Crash Indicator BASIC may not identify the highest risk motor carriers for intervention because it includes all crashes without regard to the preventability of the crash. In addition, some industry representatives have advised that while the Crash Indicator BASIC percentile is not publicly available, some customers are requiring motor carriers to disclose this information before committing to a contract.

In an attempt to identify a methodology and process for conducting preventability reviews, FMCSA completed a study on the feasibility of using a motor carrier's role in crashes as an indicator of future crash risk. The analysis focused only on the three broad questions below addressing the procedural issues surrounding a crash weighting program and the feasibility of implementing such a program; it did not focus on any other implications of the program. The three questions were separately designed and analyzed to inform Agency decisions.

1. Do PARs provide sufficient, consistent, and reliable information to support crash weighting determinations?
2. Would a crash weighting determination process offer an even stronger predictor of crash risk than overall crash involvement, and how would crash weighting be implemented in the SMS?
3. Depending upon the analysis results for the questions above, how might FMCSA manage the process for making crash weighting determinations, including public input to the process?

The Agency's research plan was posted on the Agency's Web site on July 23, 2012, at *http://csa.fmcsa.dot.gov/documents/CrashWeightingResearchPlan_7-2012.pdf.* The resulting report is titled "Crash Weighting Analysis" and is in the docket associated with this notice. The draft research was peer reviewed, and the peer review recommendations are also in the docket.

II. Summary of Comments

FMCSA received 54 docket submissions in response to the January 23, 2015 (80 FR 3719) notice. The commenters represented motor carriers, drivers, industry associations, safety advocates, and State enforcement partners. The comments focused on: (1) The impacts of the SMS information, (2) methodology changes needed in SMS, and (3) the preventability determination process.

A. Impacts of SMS Information

There was a majority opinion from the commenters that the establishment and use of a Crash Indicator BASIC percentile without consideration of crash preventability has been detrimental to motor carriers. Even though this percentile is not publicly available—it is only available to the Agency, law enforcement, and motor carriers who log into the FMCSA's Portal to view their own data—commenters expressed concern that the percentile is inaccurate, unfair, and negatively impacts their businesses. Even though the Crash Indicator BASIC percentiles are not publicly available, the American Moving and Storage Association (AMSA) and the Minnesota Trucking Association (MTA) advised that shippers are requiring motor carriers to show their percentiles before contracting with them. Industry representatives indicated that the percentiles are inaccurate because non-preventable crashes are included and, therefore, the percentiles portray motor carriers as unsafe even when their drivers or vehicles did not cause a crash.

Safety advocates, including Road Safe America, Truck Safety Coalition, and Advocates for Highway and Auto Safety (Advocates), supported keeping all crashes in the SMS system. These groups advised that using all crashes best predicts future crash risk and that the public should have access to all of the crash data.

FMCSA Response: As FMCSA has indicated previously, the SMS is a prioritization tool for the Agency and its law enforcement partners. The Agency's Crash Indicator BASIC percentiles have never been in the public view because FMCSA recognized the Crash Indicator BASIC did not factor in preventability.

As discussed in this notice, as well as a separate notice published today in the **Federal Register**, FMCSA is proposing a demonstration program in which certain types of non-preventable crashes would be removed from the SMS.

FMCSA's SMS Effectiveness Test, discussed above, supports the Agency's continued use of the Crash Indicator BASIC for its own resource prioritization during the analysis period. The Agency notes that crashes will not affect a motor carrier's safety rating unless the carrier's role in the crashes is considered first.

B. Methodology Changes

Crash Definition

Tim Watson recommended that the Agency change the recordable crash definition to eliminate tow-aways. Mr. Watson contended that the Agency's focus should be on fatal and injury crashes and that, often, the damage requiring a tow is not severe. It is his opinion that focusing on the fatal and injury crashes would be more manageable and cost-effective for FMCSA.

FMCSA Response: Revising the definition of recordable crash would be a change to the regulatory text that is beyond the scope of this notice. However, FMCSA conducted additional analysis to determine how removing tow-away crashes from the Crash Indicator BASIC would impact its effectiveness in identifying high risk carriers. A report including this analysis titled "Crash Indicator BASIC Scenario Analysis" has been added to this docket. This report suggests that removing tow-away crashes from the Crash Indicator BASIC would not improve the effectiveness of this BASIC and would significantly reduce the Agency's ability to identify and intervene with high-risk carriers. Removing tow-away crashes would result in a lower overall crash rate (5.99 crashes per 100 power units [PUs]) than the current Crash Indicator BASIC (6.34 crashes per 100 PUs), which suggests that it is not as effective at identifying high crash risk carriers. The number of crashes for this scenario is much lower than the number of crashes for the current Crash Indicator BASIC (10,854 vs. 15,638 crashes). Changes in size demographics show that under this scenario the smallest group of carriers, those with 1–5 power units, totals 286 compared to 1,379 carriers over Intervention Threshold in the current Crash Indicator BASIC. This is a 79 percent reduction in the number of carriers over the Intervention Threshold. Therefore, the Agency would have fewer opportunities to intervene through warning letters or other contact to potentially reduce crashes.

Weighting of Fatal and Injury Crashes

The American Bus Association (ABA) and National School Transportation Association (NSTA) presented a different perspective. These groups contended that the extra weighting of fatal and injury crashes has greater, and inappropriate, impacts on the passenger carrier sectors of the industry. Because of the volume of passengers, there is rarely a crash involving a bus that does not result in at least one injury. As a result, extra weighting on these crashes would automatically raise the Crash Indicator BASIC percentiles for passenger carriers.

FMCSA Response: FMCSA completed additional analysis in the Crash Indicator BASIC Scenario Analysis on the impacts of removing or altering the weighting for fatal and injury crashes for all motor carriers. The result of this change would be an overall crash rate (6.13 crashes per 100 power units) for the group of carriers over the intervention threshold that is lower than the crash rate for the group of carriers over the intervention threshold in the current Crash Indicator BASIC (6.34 crashes per 100 power units), which suggests that it is not as effective at identifying high crash risk carriers.

Separate Safety Event Groups for Passenger and Property Carriers

The passenger carrier industry also suggested that FMCSA should establish separate safety event groups for passenger and property carriers. The ABA, NSTA, and FirstGroup America indicated that this change would result in a more balanced comparison of crashes.

FMCSA Response: FMCSA previously considered this suggestion in the development of SMS and determined that it was not a viable option because the population of passenger carriers is too small and the range of company sizes, based on power units, is too great to establish reasonable safety event groups. Grouping this small population separately would result in artificially high percentiles for some carriers. However, as part of the correlation study required by Section 5221 of the FAST Act, this issue will be studied further by the National Academy of Sciences and any recommendations will be addressed upon completion of that study.

Normalize Based on Vehicle Miles Traveled (VMT)

ABA and NSTA recommended that FMCSA normalize the number of crashes using VMT to adjust the percentiles for the exposure of large carriers. It was presented that such a change would distinguish between carriers in high traffic areas and those that are not. These commenters believed that this change in the method of calculation would result in more accurate percentiles for large carriers.

FMCSA Response:

FMCSA notes that VMT is already factored into the calculation of the Crash Indicator BASIC percentile. Currently, to normalize the Crash Indicator calculation, the Crash Indicator BASIC measure is calculated by dividing the sum of the time/severity weight for all applicable crashes by the Average Power Units (PU) multiplied by the Utilization Factor. The Utilization Factor is based on industry segment (combination or straight) and VMT, as noted in the following tables.

Table 1

Combination Segment VMT per Average PU	Utilization Factor
< 80,000	1
80,000 - 160,000	$1 + \frac{(VMT\ per\ PU - 80{,}000)}{133{,}333}$
160,000 - 200,000	1.6
> 200,000	1
No Recent VMT Information	1

Table 2

Straight Segment VMT per Average PU	Utilization Factor
< 20,000	1
20,000 - 60,000	VMT per PU / 20,000
60,000 - 200,000	3
> 200,000	1
No Recent VMT Information	1

As a result, FMCSA is not considering any additional changes to how VMT is used with in the Crash Indicator. However, on June 29, 2015, the Agency published a **Federal Register** Notice titled, "Future Enhancements to the Safety Measurement System (SMS)," in which the Agency proposed increasing the maximum VMT used in the Utilization Factor to more accurately reflect the operations of high-utilization carriers. This proposed change would not impact the methodology described above. A preview of this proposed change, will be announced in a future **Federal Register** notice.

Additionally, FMCSA aligned its VMT data requirements with the Unified Registration System (URS). Previously, the SMS only used VMT data from a carrier's registration form when the VMT-associated calendar year was within 24 months of the current year. This improvement enables the SMS to use a carrier's VMT data regardless of VMT-associated calendar year.

C. Minimum Number of Crashes

While not submitted as a comment, the Agency also considered increasing the minimum number of crashes required in a 24 month period from two to three, or five, like the other SMS BASICs, before the crashes will be included in the SMS calculation.

As analyzed in the Crash Indicator BASIC Scenario Analysis, the overall crash rate for the group of carriers over the intervention threshold using a minimum of three crashes is about the same as the crash rate for the group of carriers over the intervention threshold in the current Crash Indicator BASIC (6.33 vs. 6.34 crashes per 100 Power units). This suggests that using a minimum of three crashes would continue to identify a group of carriers with high crash rates. However, this change in data sufficiency provides the Agency with a high level of confidence. The number of crashes covered under this scenario is only slightly lower than the number of crashes for the current Crash Indicator BASIC (14,838 vs. 15,638 crashes).

However, when the minimum number of crashes is raised to five, the overall crash rate for the group of carriers over the intervention threshold is lower than the crash rate for the group of carriers over the intervention threshold in the current Crash Indicator BASIC (6.23 vs. 6.34 crashes per 100 PUs), which suggests that raising the minimum number of crashes to five would reduce the effectiveness of the Crash Indicator BASIC in identifying high crash risk carriers. The number of crashes covered under this scenario is lower than the number of crashes for the current Crash Indicator BASIC (13,337 vs. 15,638 crashes).

Based on this additional analysis, FMCSA is proposing to change the minimum number of crashes from two to three before a percentile is calculated in the Crash Indicator BASIC. This change is being added to the list of proposed enhancements announced in docket FMCSA–2015–0149, "Future Enhancements to the Safety Measurement System (SMS)" published in the **Federal Register** on June 29, 2015. The Agency will propose this change and announce a preview of this change in a future **Federal Register** notice.

D. Preventability Determination Process

The American Trucking Associations (ATA) provided a list of certain types of non-preventable crashes and suggested that FMCSA establish a process by which documents could be submitted on these crashes and they could be removed from the motor carriers' record. These crashes included when the CMV is struck by a motorist who:

- Was found responsible by law enforcement for the crash;
- Was the sole party cited;
- Was driving under the influence;
- Crossed the centerline or median;
- Was driving the wrong way;
- Struck the truck in the rear; or
- Struck the truck while legally stopped.

Additionally, ATA recommended that FMCSA consider a crash non-preventable when an individual commits suicide or vehicles are incapacitated by animals.

There were many comments that indicated that PARs, as currently completed and submitted to FMCSA, are not adequate for completing a preventability determination. KSS Trucking noted, "I must comment on the PAR accuracy in this situation. After reading the report and interviews I have noted some discrepancies. From something as simple as my license plate number . . . to something as extensive as my interview, there are differences in what was reported and what was recorded." Also, Advocates agreed with the Agency that "PARS cannot be relied on to reach dependable determinations as to crash causation." Several commenters, including the ATA, National Waste and Recycling Association, and MTA, recommended that FMCSA require uniform PARs. The Oregon Department of Transportation recommended using PARs, Department of Motor Vehicle crash reports, and State motor carrier crash reports to determine preventability. Also, numerous commenters suggested using the Agency's existing Request for Data Review (RDR) process through the DataQs system for these requests.

NM Transfer Company, Inc. and Vigillo LLC recommended that FMCSA require States to make preventability determinations with the funding they are provided through the Motor Carrier Safety Assistance Program. The National Motor Freight Traffic Association, Inc. added that it is their opinion that police are taught to find fault. AMSA and ATA recommended that FMCSA tell the States not to upload the crash if the CMV or driver was not at fault. The Institute for Makers of Explosives suggested that all of the crashes be reviewed using the process currently in place for applicants for Hazardous Materials Safety Permits.

There were differing opinions on if and how the public could be involved in the preventability determination process. Advocates and the Owner-Operator Independent Driver Association (OOIDA) indicated that adjudications hearings are needed to protect the interests of all persons involved. Advocates also noted that the Agency did not propose any deterrents for filing fraudulently and excessively. OOIDA noted that, "When the government seeks to determine whether a[n] individual or company is at fault for causing bodily injuries or property damage, it must provide the accused a right to a hearing before a neutral fact-finder; the ability to offer evidence and witnesses; and the opportunity to challenge evidence and witnesses against them. Under our country's systems of legal fairness and due process, FMCSA may not unilaterally determine fault, notify the public of that determination, and punish the motor carrier by damaging its reputation. This is a problem with both FMCSA's current and proposed system of dealing with crashes. If there was a legal proceeding related to an accident where there was a finding of fault or admission, FMCSA may rely upon the determination of fault in that proceeding. That would be the only reliable source of information about crash fault to FMCSA."

Regarding the estimated costs for a preventability determination process, the National Tank Truck Carriers indicated "this would be money well spent if it served the over-riding purpose of identifying unsafe driving behavior." However, several commenters, including Advocates, indicated that this would be millions of dollars "that would not lead to any improvement in data quality."

FMCSA Response: The Agency considered the list of crash scenarios recommended by ATA and agrees to consider whether certain of these scenarios are most often non-preventable. As a result, the Agency is developing a demonstration program and a process for submitting documentation about these crashes through the DataQs program, similar to the process by which individuals may submit documentation of adjudicated citations. It will then evaluate the data to determine if the hypothesis offered by ATA—that certain types of crashes are non-preventable—is proven correct, and, if so, whether changes should be made to the Agency's programs. A separate **Federal Register** notice seeking comments and input on a process to make preventability determinations on some specific types of crashes is available elsewhere in today's **Federal Register** and is also in docket FMCSA–2014–0177.

Issued under the authority delegated in 49 CFR 1.87 on: July 5, 2016

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2016–16427 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0177]

Crash Preventability Program

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for public comment.

SUMMARY: On January 23, 2015, FMCSA announced the results of the Agency's study on the feasibility of using a motor carrier's role in crashes in the assessment of the company's safety. This study assessed: Whether police accident reports (PARs) provide sufficient, consistent, and reliable information to support crash-weighting determinations; whether a crash-weighting determination process would offer an even stronger predictor of crash risk than overall crash involvement and how crash weighting would be implemented in the Agency's Safety Measurement System (SMS); and how FMCSA might manage a process for making crash-weighting determinations, including the acceptance of public input.

Based on the feedback received in response to the January 23, 2015, **Federal Register** notice, FMCSA announced in a separate notice elsewhere in today's **Federal Register** that it conducted additional analysis in response to comments received. However, in this notice, FMCSA is proposing to develop and implement a demonstration program to determine the efficacy of a program to conduct preventability determinations on certain types of crashes that generally are less complex. This notice provides FMCSA's proposal for a demonstration program and seeks additional comment.

DATES: Comments must be received on or before September 12, 2016.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2014–0177 using any of the following methods:

Federal eRulemaking Portal: Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.

Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 0590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

Fax: 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

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FOR FURTHER INFORMATION CONTACT: For information contact Mr. Catterson Oh, Compliance Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202–366–6160 or by email: *Catterson.Oh@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Operations, telephone (202) 366–9826.

SUPPLEMENTAL INFORMATION

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2014–0177), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number, "FMCSA–2014–0177" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number, "FMCSA–2014–0177" in the "Keyword" box and click "Search." Next, click "Open Docket Folder" button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

II. Background

The Compliance, Safety, Accountability (CSA) program is FMCSA's enforcement model that allows the Agency and its State partners to identify and address motor carrier safety problems before crashes occur. The Agency's SMS quantifies the on-road safety performance of motor carriers to prioritize enforcement resources. FMCSA first announced the implementation of the SMS in the **Federal Register** on April 9, 2010 (75 FR 18256) (Docket No. FMCSA–2004–18898). Violations are sorted into Behavior Analysis and Safety Improvement Categories (BASICs), which include a Crash Indicator BASIC.

Since its implementation in 2010, the SMS has used recordable-crash records involving commercial motor vehicles (CMVs) that are submitted by the States through the Agency's Motor Carrier Management Information System (MCMIS), in addition to safety performance in other BASICs, to assess motor carriers' crash histories and prioritize carriers for safety interventions. The Agency uses the definition of "accident" in 49 CFR 390.5.

The crash data reported to FMCSA by the States does not specify a motor carrier's role in the crash or whether the crash was preventable. The Crash Indicator BASIC weights crashes based on crash severity, with more weight given to fatality and injury crashes than those that resulted in a vehicle towed from the scene with no injuries or fatalities. While the public SMS Web site provides information on the recordable crashes of motor carriers, the Crash Indicator BASIC percentiles created by the system have never been publicly available. The Crash Indicator BASIC percentiles are available only to motor carriers who log in to view their own data, as well as to Agency and law enforcement users.

Research on this issue conducted by FMCSA, as well as independent organizations, has demonstrated that crash involvement, regardless of role in the crash, is a strong indicator of future crash risk. FMCSA's recently completed SMS Effectiveness Test shows that, as a group, motor carriers with high percentiles in the Crash Indicator BASIC have crash rates that are 85 percent higher than the national average. (*https://csa.fmcsa.dot.gov/Documents/CSMS_Effectiveness_Test_Final_Report.pdf*). This document and related reports are available in the docket of this notice.

Because the Crash Indicator BASIC includes all crashes—without regard to the preventability of the crash, stakeholders have expressed concern that it may not identify the highest-risk motor carriers for interventions. In addition, some industry representatives have advised that, while the Crash Indicator BASIC percentile is not publicly available, some customers are requiring motor carriers to disclose this information before committing to a contract.

To identify a methodology and process for conducting preventability reviews, FMCSA completed a study on the feasibility of using a motor carrier's role in crashes as an indicator of future crash risk. The analysis focused only on three broad questions addressing the procedural issues surrounding a crash-weighting program and the feasibility of implementing such a program; it did not focus on any other implications of the program.

The three questions were individually designed and analyzed to inform Agency decisions.

1. Do Police Accident Reports (PARs) provide sufficient, consistent, and reliable information to support crash-weighting determinations?

2. Would a crash-weighting determination process offer an even stronger predictor of crash risk than overall crash involvement, and how would crash weighting be implemented in the SMS?

3. Depending upon the analysis results for the questions above, how might FMCSA manage the process for making crash-weighting determinations, including public input to the process?

The Agency's research plan was posted on the Agency's Web site on July 23, 2012, at *http://csa.fmcsa.dot.gov/documents/CrashWeightingResearchPlan_7-2012.pdf.* The resulting report is titled "Crash Weighting Analysis"; it is in the docket associated with this notice. The draft research was peer reviewed, and the peer review recommendations are also in the docket.

The comments to the January 23, 2015, **Federal Register** notice focused on methodology changes needed in SMS, and the preventability determination process.

Elsewhere in today's **Federal Register**, FMCSA responds to the comments and provides the results of additional analysis on removing tow-away crashes, removing the extra weighting for fatal and injury crashes, and using a higher minimum number of crashes for data sufficiency purposes. Additionally, FMCSA advised that it would publish a separate **Federal Register** notice seeking comments and input on a demonstration program to make preventability determinations on some specific types of crashes. This notice fulfills that commitment.

III. Proposal for Demonstration Program

A. Types of Crashes

In response to FMCSA's January 23, 2015, **Federal Register** notice, the American Trucking Associations (ATA) provided a list of certain types of non-preventable crashes and suggested that FMCSA establish a process by which documents could be submitted on these crashes and they could be removed from the motor carriers' records. Additionally, ATA recommended that FMCSA consider a crash non-preventable when an individual commits suicide or vehicles are incapacitated by animals. FMCSA considered this list and, as a result, proposes that on an effective date to be named in a future **Federal Register** notice, the Agency would begin a demonstration program under which it would accept requests for data review (RDRs) that seek to establish the non-preventability of certain crashes through its national data correction system known as DataQs. The Agency would accept an RDR as part of this program when documentation established that the crash was not preventable by the motor carrier or commercial driver.

A crash would be considered not preventable if the CMV was struck by a motorist who was convicted of one of the four following offenses or a related offense:

1. Driving under the influence;
2. Driving the wrong direction;
3. Striking the CMV in the rear; or
4. Striking the CMV while it was legally stopped.

FMCSA is specifically interested in information related specifically to these four crash scenarios that would be useful for this demonstration program.

The Agency proposes that evidence of a conviction, as defined in 49 CFR 383.5 and 390.5, for one of the above offenses must be submitted with the RDR to document that the crash was not preventable by the motor carrier or driver. In addition to documentation of the conviction, these RDRs should include all available law enforcement reports, insurance reports from all parties involved in the crash, and any other relevant information. However, FMCSA specifically seeks comments on what other documentation would be sufficient to make this determination.

FMCSA notes that this list is not identical to ATA's proposed list. Because some of the crash scenarios submitted by ATA were too broadly defined and/or may not result in convictions, the Agency is not using the suggested standard of "was found responsible by law enforcement for the crash." Previous research by the Agency showed that PARs do not generally provide a clear determination as to the preventability of a crash. Relying on a conviction related to one of the crash scenarios described ensures the Agency will have a clear record on which to base its determination.

RDRs could also be submitted through DataQs when the crash did not involve other vehicles, such as crashes in which an individual committed suicide by stepping or driving in front of the vehicle or the vehicle was incapacitated by an animal in the roadway or the crash was the result of an infrastructure failure. The RDR must present sufficient evidence that the driver of the CMV took reasonable action to avoid the crash and did not contribute to the crash. If, for example, a CMV hit an animal but the CMV driver was on his/her cellphone or speeding at the time of the crash, this crash would be determined to have been preventable. In these and all crashes, the Agency reserves the right to request additional information to substantiate the cause of the crash. Failure to submit a complete RDR with the required documentation would be cause for the RDR to be rejected.

Again, the Agency seeks comments on what other documentation would be sufficient to make this determination.

In addition, Section 5223 of the Fixing America's Surface Transportation, Pub. L. 114–94 (FAST) Act prohibits the Agency from making available to the general public information regarding crashes in which a determination is made that the motor carrier or the commercial motor vehicle driver is not at fault. Therefore, crashes determined to be not preventable will not be listed on the carrier's list of crashes on the public SMS Web site.

B. Reviewers

For this demonstration program, FMCSA is proposing to use DataQs to direct these types of requests to a group of reviewers under the Agency's direct supervision. FMCSA has not yet determined whether this would be a dedicated group of FMCSA staff or if these reviews would be conducted by a third party under contract to FMCSA. These RDRs would not be directed to the States.

C. Preventability Decisions

Upon receipt of a complete RDR, FMCSA staff or a contractor would review the submission using the preventability definition in 49 CFR part 385. The Agency proposes that the RDR would result in one of the following three decisions and actions:

1. *Not Preventable*—In these cases, the crash is removed from SMS.

2. *Preventable*—In these cases, the crash is not removed from SMS for purposes of calculating the Crash Indicator BASIC percentile. FMCSA is considering options for weighting these crashes and is looking at the impacts if the current severity weighting is used (based on crash severity) or if a higher weighting is used since a preventability decision has been made. When crashes are determined to be "Preventable," the crash is still listed on the Agency's Web sites with a note that reads, "FMCSA reviewed this crash and determined that it was preventable."

3. *Undecided*—In these cases, the documentation submitted did not allow for a conclusive decision by reviewers. When crash reviews are undecided, the crash is not removed from SMS and the severity weighting is unchanged. The crash will still be listed on the Agency's Web sites with a note that reads, "FMCSA reviewed this crash and could not make a preventability determination based on the evidence provided."

In keeping with the Agency's current preventability guidance, if a post-crash inspection determines that the motor carrier, vehicle, or driver was in violation of an out-of-service regulation at the time of the crash, the crash will be determined to have been "Preventable."

D. Review

The public, including motor carriers and drivers, would be allowed to seek review of the RDR decision using the DataQs system and processes currently in place.

E. Quality Controls

In order to ensure the quality and consistency of the reviews, FMCSA will build a quality control standard into either its contract or its internal procedures. For example, it is anticipated that a process will be established to require a certain percent of reviews to be checked by a different reviewer to confirm consistent decisions are made. When a different conclusion is reached by the second reviewer, a supervisor will be responsible for reviewing the case and rendering a decision.

F. Fraudulent Requests

In accordance with the Agency's existing DataQs program, any intentionally false or misleading statement, representation, or document that is provided in support of an RDR may result in prosecution for a violation of Federal law punishable by a fine of not more than $10,000.00 or imprisonment for not more than 5 years, or both (18 U.S.C. 1001).

G. Agency Analysis

Throughout this test period, FMCSA will maintain data so that at the conclusion of the test, the Agency can conduct analysis. It is expected that the Agency's analysis would include, but not be limited to, cost of operating the test, future crashes of carriers that submitted RDRs, future crash rates of motor carriers with preventable crashes, and impacts to SMS crash rates. The analysis will be used to examine ATA's assertion that crashes of these types are not the responsibility of the motor carrier, and inform future policy decisions on this issue.

H. Testing Period

FMCSA proposes that the minimum time period for this crash preventability test would be 24 months.

Issued under the authority delegated in 49 CFR 1.87 on: July 5, 2016.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2016–16426 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2015–0340]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA confirms its decision to exempt 55 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions were effective on January 29, 2016. The exemptions expire on January 29, 2018.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On December 29, 2015, FMCSA published a notice of receipt of Federal diabetes exemption applications from 55 individuals and requested comments from the public (80 FR 81415). The public comment period closed on January 28, 2016.

FMCSA has evaluated the eligibility of the 55 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

III. Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that "A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control" (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century." The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 55 applicants have had ITDM over a range of 1 to 37 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the December 29, 2015, **Federal Register** notice and they will not be repeated in this notice.

IV. Discussion of Comments

FMCSA received no comments in this proceeding.

V. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

VI. Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VII. Conclusion

Based upon its evaluation of the 55 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above 49 CFR 391.64(b)).

William G. Adams (CA)
Elmer W. Barrall (DE)
Earl Bland (MO)
Richard W. Bostwick, II (MA)
Kevin Bracken (PA)
Donald L. Callahan (KY)
Mark A. Carlson (MI)
Charles W. Clark (TX)
Korey D. Clark (MI)
Michael A. Craig (NC)
Roderick E. Dean (NJ)
Mary K. Dillon (PA)
Eugene N. Dirl (PA)
Kevin F. Dykes (MA)
Richard L. Engle (KY)
Christopher J. Frank (NY)
Matthew E. Fry (KS)
Al Glover, Jr. (LA)
Jimmy H. Goacher (NC)
Jim B. Gonzalez (OR)
Nathaniel K. Hamilton (TX)
Michael D. Henry (OH)
Douglas E. Hensley (MO)
Jon C. Hicks (PA)
Kevin F. Hoffman (PA)
Jerry A. Huffman (NC)
Daurell A. Jones (MD)
Larry C. Krueger (NE)
Chad M. Kuck (AK)
Stephen B. Lenhart (OH)
Donald R. Leonard, Jr. (NH)
Jack D. McAlister (NH)
John K. Moorhead (KY)
Sandra R. Moultrie (GA)
John M. Olmstead (IN)
Dustin M. Parker (VT)
Patrick E. Patch (NY)
Howard L. Peacock (KS)
Carl F. Piekenbrock, Jr. (PA)
Chauncey W. Pittman (IN)
William Raben (GA)
James E. Richardson (NY)
Gerald C. Rosencrans (PA)
Henry J. Russo (NJ)
Richard G. Schumann (NJ)
Jefferson L. Smith (MA)
Troy T. Sunnarborg (MN)
Ohnedaruth M. Swain, Sr. (PA)
George W. Toro (NY)
Hugh S. Wacker (IL)
Kristopher L. Ward (WI)
David C. Wheat (TX)
William R. White (MI)
Curtis L. Worsfold (NE)
Jason D. Zagorski (NC)

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: July 5, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–16428 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0030]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 18 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before August 11, 2016. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2016–0030 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption." FMCSA can renew exemptions at the end of each 2-year period. The 18 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Travis A. Beckum

Mr. Beckum, 29, has had optic atrophy in his right eye since childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "I feel Mr. Beckum is safe to operate a commercial motor vehicle given the vision we tested today." Mr. Beckum reported that he has driven tractor-trailer combinations for 3 years, accumulating 79,500 miles. He holds a Class AM CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steve Benton

Mr. Benton, 53, has had a prosthetic left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, "I certify that Mr. Steve Benton has sufficient vision to perform the driving task required to operate a commercial vehicle." Mr. Benton reported that he has driven straight trucks for 5 years, accumulating 75,000 miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Caleb E. Boulware

Mr. Boulware, 33, has a prosthetic left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2016, his optometrist stated, "If the findings submitted are sufficient for DOT requirements for CDL [*sic*] then in my opinion Mr. Boulware has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Boulware reported that he has driven straight trucks for 17 years, accumulating 68,000 miles. He holds a Class B CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David E. Campbell

Mr. Campbell, 57, has had exotropia and amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2016, his ophthalmologist stated that Mr. Campbell does have sufficient vision to perform the driving tasks required to operate a CMV. Mr. Campbell reported that he has driven straight trucks for 36 years, accumulating 2.88 million miles, and tractor-trailer combinations for 36 years, accumulating 3.24 million miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James G. Cothren

Mr. Cothren, 49, has had a prosthetic right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "In my opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Cothren reported that he has driven straight trucks for 5 years, accumulating 125,000 miles, and tractor-trailer combinations for 20 years, accumulating 2 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Nenad Harnos

Mr. Harnos, 41, has a corneal scar in his left eye due to a traumatic incident in 2000. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2016, his optometrist stated, "His right eye meets all criteria for a CDL." Mr. Harnos reported that he has driven straight trucks for 3 years, accumulating 195,000 miles. He holds an operator's license from New Jersey. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Matthew D. Hormann

Mr. Hormann, 41, has a retinal scar in his right eye due to a traumatic incident in 1992. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "I feel with Matts [*sic*] record of driving and his past 24 years of driving with this central vision loss OD he should qualify for an exemption and be given a CDL certificate." Mr. Hormann reported that he has driven straight trucks for 25 years, accumulating 27,500 miles, and tractor-trailer combinations for 22 years, accumulating 220,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James W. Jones

Mr. Jones, 63, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "I do not believe that Mr. Jones [*sic*] vision will affect his ability to operate a commercial vehicle especially since his visual field is full and left eye is correctable to 20/20." Mr. Jones reported that he has driven straight trucks for 37 years, accumulating 550,000 miles, and tractor-trailer combinations for 18 years, accumulating 540,000 miles. He holds an operator's license from Alabama. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Louis M. Jones

Mr. Jones, 40, has a prosthetic left eye due to a traumatic incident in 2006. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2016, his optometrist stated, "Based on the criteria necessary to operate a commercial motor vehicle by the Federal Motor Carrier Safety Administration, it is my medical opinion that Mr. Jones meets the requirements in the right eye." Mr. Jones reported that he has driven straight trucks for 3 years, accumulating 150,000 miles. He holds a chauffer's license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Duane R. Martin

Mr. Martin, 53, has a prosthetic right eye due to a traumatic incident in childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "My medical opinion is that Mr. Duane Martin has sufficient vision in his left eye to perform the driving tasks required to operate his commercial vehicle." Mr. Martin reported that he has driven straight trucks for 20 years, accumulating 600,000 miles, and tractor-trailer combinations for 4 years, accumulating 100,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roger S. Orr

Mr. Orr, 49, has a cataract in his left eye due to a traumatic incident in childhood. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2016, his optometrist stated, "At this time, I do feel that Roger Orr has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Orr reported that he has driven straight trucks for 6 years, accumulating 138,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Johnny A. Peery, Jr.

Mr. Peery, 50, has had a prosthetic left eye since 2001. The visual acuity in his right eye is 20/25, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, "Pt [sic] has sufficient vision to operate a commercial vehicle." Mr. Peery reported that he has driven straight trucks for 31 years, accumulating 620,000 miles, and tractor-trailer combinations for 31 years, accumulating 775,000 miles. He holds a Class AM CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

J.W. Ray

Mr. Ray, 72, has a retinal scar in his left eye due to a traumatic incident in 1953. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2016, his optometrist stated, "In my medical opinion Mr. Ray has the visual capability to operate a commercial vehicle." Mr. Ray reported that he has driven tractor-trailer combinations for 40 years, accumulating 1.81 million miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard D. Shryock

Mr. Shryock, 48, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, "I certify in my medical opinion that Mr. Shryock has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Shryock reported that he has driven straight trucks for 30 years, accumulating 900,000 miles, and tractor-trailer combinations for 24 years, accumulating 1.68 million miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven D. Sodders

Mr. Sodders, 64, has had complete loss of vision in his right eye since 2009 due to melanoma. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his ophthalmologist stated, "In my opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sodders reported that he has driven straight trucks for 37 years, accumulating 426,240 miles. He holds an operator's license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jerry M. Stearns, Jr.

Mr. Stearns, 34, has had a central scotoma in his left eye since 2008. The visual acuity in his right eye is 20/15, and in his left eye, counting fingers. Following an examination in 2016, his optometrist stated, "Mr. Stearns has sufficient vision and visual fields to operate a commercial vehicle." Mr. Stearns, reported that he has driven straight trucks for 18 years, accumulating 540,000 miles. He holds an operator's license from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Keith R. Tyler

Mr. Tyler, 40, has had panuveitis in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2015, his ophthalmologist stated, "I certify in my medical opinion that Mr. Keith Tyler has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Tyler reported that he has driven buses for 19 years, accumulating 190,000 miles. He holds a Class B CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James L. Yingst

Mr. Yingst, 53, has had blindness in his right eye due to a traumatic incident in childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, "After performing a visual examination of Mr. Yingst it is in my professional opinion he is visually able to safely operate a commercial vehicle." Mr. Yingst reported that he has driven tractor-trailer combinations for 30 years, accumulating 360,000 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2016–0030 in the "Keyword" box, and click "Search. When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2016–0030 in the "Keyword" box and click "Search." Next, click "Open DocketFolder" button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: June 29, 2016.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2016–16430 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Daimler Trucks North America (Daimler) for one of its commercial motor vehicle (CMV) drivers. Daimler requested a five-year exemption from the Federal requirement to hold a U.S. commercial driver's license (CDL) for Ms. Melanie Baumann, executive assistant to the head of the Daimler Trucks and Bus Division. Ms. Baumann holds a valid German commercial license and wants to test drive Daimler vehicles on U.S. roads to better understand product requirements in "real world" environments, and verify results. Daimler believes the requirements for a German commercial license ensure that operation under the exemption will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption.

DATES: This exemption is effective June 30, 2016, and expires June 29, 2021.

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, "FMCSA–2012–0032 in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain its terms and conditions. The exemption may be renewed (49 CFR 381.300(b)).

Section 5206(a)(3) of the "Fixing America's Surface Transportation Act," (FAST Act) [Pub. L. 114–94, 129 Stat. 1312, 1537, Dec. 4, 2015], amended 49 U.S.C. 31315(b) by adding a new paragraph (2) which permits exemptions for no longer than five years from their dates of inception, instead of the previous two years. This statutory provision will be codified in 49 CFR part 381 in a forthcoming rulemaking.

III. Request for Exemption

Daimler applied for a 30-day waiver and a 5-year exemption from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce, for one of its drivers, Ms. Melanie Baumann. Ms. Baumann holds a valid German commercial license but is unable to obtain a CDL in any of the U.S. States due to residency requirements. A copy of the application is in Docket No. FMCSA–2012–0032.

On April 3, 2016, FMCSA granted Ms. Baumann a waiver effective from June 1 through June 30, 2016, to allow her to drive Daimler vehicles as described in the application for the exemption. The 5-year exemption will replace the waiver before it expires. Ms. Baumann needs to drive Daimler vehicles on public roads to better understand "real world" environments in the U.S. market. According to Daimler, Ms. Baumann will typically drive for no more than 6 hours per day for 2 consecutive days, and that 10 percent of the test driving will be on two-lane State highways, while 90 percent will be on Interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis. She will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Ms. Baumann holds a valid German commercial license, and as explained by Daimler in its exemption request, the requirements for that license ensure that the same level of safety is met or exceeded as if this driver had a U.S. CDL. Furthermore, according to Daimler, Ms. Baumann is familiar with the operation of CMVs worldwide.

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)].

Public Comments

On April 5, 2016, FMCSA published notice of this application and requested public comments (81 FR 19702). There were no comments in opposition or in support of the proposed exemption.

FMCSA Decision

Based upon the merits of this application, including Ms. Baumann's extensive driving experience and safety record, FMCSA concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

Terms and Conditions for the Exemption

FMCSA grants Daimler and Melanie Baumann an exemption from the CDL requirement in 49 CFR 383.23 to allow Ms. Baumann to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of her duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Ms. Baumann fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: June 29, 2016.

T.F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2016–16425 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2008–0065]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated May, 4, 2016, the Maryland Transit Administration (MARC) has petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 238.309(a)(2), 229.27(a)(2), and 229.29(e). FRA assigned the petition Docket Number FRA–2008–0065.

MARC's purpose for the submission of this petition is to gain acceptance by FRA of the application of the following alternate standards for the CCB–KE–3.9 air brake system of the MARC HHP–8 locomotives. This alternate standard to 49 CFR 229.29(e) and 238.309(a)(2) is to allow for the level two and level three maintenance intervals to be 2,944 days (8 years). This request for the application of an alternate standard is based on the results of an age exploration study for the HHP8 air brake system as outlined in Docket Numbers FRA–2008–0065 and FRA–2001–10596.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 26, 2016 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Patrick T. Warren,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 2016–16424 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0002; PDA–36(R)]

Hazardous Materials: Pittsburgh, Pennsylvania Permit Requirements for Transportation of Hazardous Material

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice Dismissing Application and Closing the Docket.

SUMMARY: The application for a determination of preemption is dismissed, and this docket is closed, because the City of Pittsburgh, Pennsylvania's permit and permit fee requirements are not being applied or enforced.

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel (PHC–10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone No. 202–366–4400; facsimile No. 202–366–7041.

SUPPLEMENTARY INFORMATION: The American Trucking Associations, Inc. (ATA) applied for an administrative determination concerning whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* preempts requirements of the City of Pittsburgh, Pennsylvania (City) for a permit to transport hazardous materials by motor vehicle and the fee to obtain the permit. On April 7, 2014, PHMSA published a public notice and invitation to comment on ATA's application. 79 FR 21840. On June 2, 2014, the comment period closed without any parties submitting comments. On April 27, 2015, PHMSA published a notice of delay in processing ATA's application in order to conduct additional fact-finding and legal analysis in response to the application. 80 FR 23328. On July 6, 2015, PHMSA sent a letter to the City's Solicitor, and its Fire Chief, to encourage the city to participate in the proceeding. On July 20, 2015, the City responded to PHMSA's letter and informed the agency that the "City of Pittsburgh at this time is not accepting applications for the 'Transportation of Hazardous Materials' permit and has not done so since 2013." The City further stated that "[n]o fees were collected for 2014 or 2015. For 2013, the City of Pittsburgh collected a total of $8,316.00 which was deposited into the City of Pittsburgh's General Fund." Thereafter, in a letter, dated March 11, 2016, the City's Solicitor confirmed to PHMSA that the City had stopped enforcing its permit and fee requirements to transport hazardous materials in 2013, and further stated that it had no intention of taking it up again.

In light of this information, ATA's application is hereby dismissed, and the docket is closed. In the future, if the City of Pittsburgh, Pennsylvania's permit and permit fee requirements are ever applied and enforced, ATA may again submit an application for a preemption determination.

Applicable Federal Requirements: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* and the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180.

Mode Affected: Highway.

Issued in Washington, DC, on July 6, 2016.

Joseph Solomey,

Senior Assistant Chief Counsel.

[FR Doc. 2016–16386 Filed 7–11–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Information Collection, CDFI and NACA Programs

AGENCY: Community Development Financial Institutions Fund, Treasury.

ACTION: Notice and Request for Public Comment.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3506(c)(2)(A). Currently, the Community Development Financial Institutions Fund (CDFI Fund), U.S. Department of the Treasury, is soliciting comments concerning the Community Development Financial Institutions Program (CDFI Program) and the Native American CDFI Assistance Program (NACA Program) Financial Assistance and Technical Assistance Applications for the FY 2017–FY 2019 funding rounds (hereafter, the Application or Applications). The CDFI Fund is required by law to make the Applications publically available for comment prior to submission for a new PRA number.

DATES: Written comments must be received on or before September 12, 2016 to be assured of consideration.

ADDRESSES: Submit your comments via email to Amber Bell, CDFI Program and NACA Program Manager, CDFI Fund, at *cdfihelp@cdfi.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Amber Bell, CDFI Program and NACA Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220 or email to *cdfihelp@cdfi.treas.gov.*

The Applications may be obtained from the CDFI Program page and NACA Program page of the CDFI Fund's Web site *https://www.cdfifund.gov/Lists/CDFI%20News/View.aspx.*

SUPPLEMENTARY INFORMATION:

Title: CDFI Program and NACA Program Financial Assistance and Technical Assistance Applications;

OMB Number: 1559–0021.

Abstract: The CDFI Program is authorized by the Riegle Community Development Banking and Financial Institutions Act of 1994 (Pub. L. 103–325, 12 U.S.C. 4701 *et seq.*). Funding for the CDFI Program and the NACA Program is made available by Congress to the CDFI Fund through its annual appropriations. The regulations governing the CDFI Program are found at 12 CFR parts 1805 and 1815 (the Regulations) and set forth evaluation criteria and other program requirements. For a complete understanding of the programs, the CDFI Fund encourages Applicants to review the Regulations, the Notice of Funds Availability (NOFA) for the FY 2016 application round of the CDFI Program (81 **Federal Register** 8328, February 18, 2016), the NOFA for the FY 2016 application round of the NACA Program (81 **Federal Register** 8342, February 18, 2016), the Application, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200) (Uniform Administrative Requirements). Capitalized terms in this Request for Public Comment are defined in the CDFI Program's authorizing statute, the Regulations, the FY 2016 CDFI Program and NACA Program NOFAs, the Application, and the Uniform Administrative Requirements.

Through the CDFI Program and NACA Program's Financial Assistance awards and Technical Assistance grants, the CDFI Fund invests in and builds the capacity of for-profit and nonprofit community based lending organizations known as Community Development Financial Institutions (CDFIs).

CDFI Program and NACA Program award Recipients will be competitively selected after the CDFI Fund's careful review of their Applications. The proposed Financial Assistance Application requires the submission of quantitative and qualitative information about the Applicant's Business Strategy, Products and Services, Market and Competitive Analysis, Management and Staffing, Financial Position, and Growth and Financial Projections. The proposed Technical Assistance Application requires the submission of quantitative and qualitative information about CDFI Certification Qualifications, an Organizational Overview, and Use of Funds. Please refer to the FY 2016 CDFI Program and NACA Program NOFAs for additional guidance on the review and application process for past funding rounds.

This request for public comment seeks to gather information on the CDFI Program and NACA Program Financial Assistance and Technical Assistance Applications.

Current Actions: Renewal of existing Information Collection.

Type of Review: Regular Review.

Affected Public: Certified CDFIs and qualified Nonprofit Organizations.

Estimated Number of Respondents for Financial Assistance: 400.

Estimated Annual Time per Respondent for Financial Assistance: 100.

Estimated Total Annual Burden Hours for Financial Assistance: 40,000.

Estimated Number of Respondents for Technical Assistance: 100.

Estimated Annual Time per Respondent for Technical Assistance: 50.

Estimated Total Annual Burden Hours for Technical Assistance: 5,000.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the CDFI Fund's Web site at *http://www.cdfifund.gov.* The CDFI Fund is seeking input on the content of the CDFI Program and NACA Program Financial Assistance and Technical Assistance Applications. The Applications may be obtained on the CDFI Fund's Web site at *https://www.cdfifund.gov/Lists/CDFI%20News/View.aspx.* CDFI Program and NACA Program Financial Assistance awards must be used for Financial Products, Financial Services, and/or Development Services for commercial facilities, small businesses, microenterprises, community facilities, consumer financial products and services, affordable housing, and intermediary lending to nonprofits and CDFIs — so long as those activities allow the Recipient to achieve at least one of the following statutorily required Financial Assistance activities: Expand operations into a new Investment Area(s); serve a new Targeted Population(s); provide additional or new Financial Products, Financial Services, and/or Development Services; and/or increase the volume of current Financial Products, Financial Services, and/or Development Services.

Comments concerning the Applications are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

In addition, the CDFI Fund requests comments in response to the following questions:

(1) Is the information that is proposed to be collected by the Application necessary and appropriate for the CDFI Fund to consider for the purpose of making award decisions?

(2) Are certain questions or tables redundant or unnecessary?

(3) Should any questions or tables be added to ensure collection of relevant information?

(4) In general, does the data and information requested in the Application allow an Applicant to demonstrate its ability to meet the eligible uses (commercial facilities, small businesses, microenterprises, community facilities, consumer financial products and services, affordable housing, and intermediary lending to nonprofits and CDFIs) of CDFI Fund Program awards?

(5) Is the data and information requested in the Application to assess proposed Financial Assistance activities adequate to assess these different activities?

(6) What, if any, additional data and information should be collected to assess Financial Assistance activities?

(7) Are any of the questions particularly burdensome or difficult to answer? Please be specific to type of CDFI (*e.g.,* regulated, non-profit, sector)?

(8) Are the character limitations for narrative responses appropriate? Should certain questions allow additional or fewer characters?

(9) Are there questions that lack clarity as to intent or purpose? If so, which questions, and what needs to be clarified in order to provide a comprehensive response?

(10) Are there questions that would require additional guidance in order to respond adequately? If so, which questions, and what type of instructions would be helpful in order to be able to provide a response?

(11) Is the financial data that is intended to be collected adequate to assess an Applicant's financial and portfolio performance?

(12) Is there other information not requested in the Application that could demonstrate an Applicant's financial and portfolio performance?

(13) Tables in Questions 6 a-d ask for certain data and information that will be used to assess an Applicant's projected Financial Assistance activities. Is the data collected in these tables adequate to assess an Applicant's projected Financial Assistance activities?

(14) Is there other information not requested in the Application that would demonstrate an Applicant's projected Financial Assistance activities?

(15) Are there requests for data in the Application that Applicants do not have readily available or that are burdensome to obtain and/or calculate?

(16) Do the questions in the Technical Assistance Application allow the Applicant to clearly answer the evaluation criteria if the CDFI Program and NACA Program were to evaluate Technical Assistance Awards by the applicant's ability to achieve the following for each applicant category type:

(a) Emerging and Certifiable CDFI: Achieve certification for the Applicant;

(b) Sponsoring Entity: Create and certify a new CDFI; and

(c) Certified CDFI: Build the capacity of the Applicant to expand operations, offer new products or services, or increase the volume of current business?

Authority: Pub. L. 110–289, 12 CFR 1807.

Mary Ann Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2016–16417 Filed 7–11–16; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, "Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks" (Guidance).

DATES: Comments must be received by September 12, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0246, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mailstop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed renewal of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing this notice.

The OCC is proposing to extend OMB approval of the following information collection:

Abstract: On December 16, 2009, the OCC, FDIC, FRB and NCUA sought comment on the guidance,[1] which they issued in final form on August 17, 2010.[2] The guidance focused on the need to provide adequate information to consumers about reverse mortgage products, to provide qualified independent counseling to consumers considering these products, and to avoid potential conflicts of interest. The guidance also addressed related policies, procedures, internal controls, and third party risk management.

The information collection requirements included implementation of policies and procedures, training, and program maintenance. The requirements are outlined below:

- Institutions offering reverse mortgages should have written policies and procedures that prohibit the practice of directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf.
- Policies should be clear so that originators do not have an inappropriate

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[1] 74 FR 66652.

[2] 75 FR 50801.

incentive to sell other products that appear linked to the granting of a mortgage.

- Legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products.
- Training should be designed so that relevant lending personnel are able to convey information to consumers about product terms and risks in a timely, accurate, and balanced manner.

Title of Information Collection: Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks.

OMB Control No.: 1557–0246.

Affected Public: National banks, Federal savings associations, subsidiaries of national banks and Federal savings associations, and Federal branches or agencies of foreign banks.

Type of Review: Regular.

Estimated Burden:

Number of respondents: 15.

Burden per respondent: 40 hours to implement policies and procedures and to provide training; 8 hours annually to maintain program.

Total estimated annual burden: 160 hours.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the Federal banking agencies' functions, including whether the information has practical utility;

(b) The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: July 6, 2016.

Mary Hoyle Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–16414 Filed 7–11–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Special Projects Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, August 2, 2016.

FOR FURTHER INFORMATION CONTACT: Stacia Jones at 1–888–912–1227 or 713–209–4818.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Special Projects Committee will be held Tuesday, August 2, 2016, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Stacia Jones. For more information please contact: Stacia Jones at 1–888–912–1227 or 713–209–4818, TAP Office, 1919 Smith, Houston, TX 77002, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various special topics with IRS processes.

Dated: July 7, 2016.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2016–16513 Filed 7–11–16; 8:45 am]

BILLING CODE 4830–01–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Meetings To Prepare the 2016 Annual Report to Congress

Advisory Committee: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open meetings to be held in Washington, DC to review and edit drafts of the 2016 Annual Report to Congress on the following dates: July 13–14, August 10–11, September 14–15, and October 5–6, 2016.

SUMMARY: Notice is hereby given of meetings of the U.S.-China Economic and Security Review Commission.

Name: Dennis Shea, Chairman of the U.S.-China Economic and Security Review Commission.

The Commission is mandated by Congress to investigate, assess, evaluate and report to Congress annually on the U.S.-China economic and security relationship. The mandate specifically charges the Commission to prepare a report to Congress "regarding the national security implications and impact of the bilateral trade and economic relationship between the United States and the People's Republic of China [that] shall include a full analysis, along with conclusions and recommendations for legislative and administrative actions . . ."

Purpose of Meetings: Pursuant to this mandate, members of the Commission will meet in Washington, DC on July 13–14, August 10–11, September 14–15, and October 5–6, 2016 to review and edit drafts of the 2016 Annual Report to Congress.

The Commission is subject to the Federal Advisory Committee Act (FACA) with the enactment of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 that was signed into law on November 22, 2005 (Public Law 109–108). In accordance with FACA, the Commission's meeting to make decisions concerning the substance and recommendations of its 2016 Annual Report to Congress are open to the public.

Topics To Be Discussed: The Commissioners will be considering draft report sections addressing the following topics:

- U.S.-China Economic and Trade Relations, including: Year in Review, Economics and Trade; State-Owned Enterprises, Overcapacity, and China's Market Economy Status; and 13th Five-Year Plan.
- U.S.-China Security Relations, including: Year in Review, Security and Foreign Affairs; China's Expeditionary and Force Projection Capabilities; and China's Intelligence Services and Espionage Threats to the United States.
- China and the world, including: China and South Asia, China and Taiwan, China and Hong Kong, and China and North Korea.
- China and the U.S. Rebalance to Asia.

Dates, Times, and Room Locations (Eastern Daylight Time):

- Wednesday and Thursday, *July 13–14, 2016* (9:00 a.m. to 5:00 p.m.)—Room 383
- Wednesday and Thursday, *August 10–11, 2016* (9:00 a.m. to 5:00 p.m.)—Room 231
- Wednesday and Thursday, *September 14–15, 2016* (9:00 a.m. to 5:00 p.m.)—Room 231
- Wednesday and Thursday, *October 5–6, 2016* (9:00 a.m. to 5:00 p.m.)—Room 231

ADDRESSES: All report review-editing sessions will be held in The Hall of the States (North Bldg., 2nd Floor), located at 444 North Capitol Street NW., Washington, DC 20001.

Public seating is limited and will be available on a "first-come, first-served" basis. *Advanced reservations are not required. All participants must register at the front desk of the lobby.*

Required Accessibility Statement: The entirety of these Commission editorial and drafting meetings will be open to the public. The Commission may recess the public editorial/drafting sessions to address administrative issues in closed session.

The open meetings will also be adjourned around noon for a lunch break. At the beginning of the lunch break, the Chairman will announce what time the Annual Report review and editing session will reconvene.

FOR FURTHER INFORMATION CONTACT: Rickisha Berrien-Lopez, Human Resources and Administrative Specialist, U.S.-China Economic and Security Review Commission, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; Phone: (202) 624–1454; Email: *rberrien-lopez@uscc.gov.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: July 6, 2016.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2016–16415 Filed 7–11–16; 8:45 am]

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